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Floor Debate
April 23, 2007

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SENATOR LANGEMEIER PRESIDING []

SENATOR LANGEMEIER: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the sixty-eighth day of the One Hundredth Legislature, First Session. Our chaplain for the day is Senator Heidemann. Please rise.
[]

SENATOR HEIDEMANN: (Prayer offered.) []

SENATOR LANGEMEIER: Thank you. I call to order the sixty-eighth day of the One Hundredth Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record. []

CLERK: I have a quorum present, Mr. President. []

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Are there any corrections for the Journal? []

CLERK: I have no corrections, Mr. President. []

SENATOR LANGEMEIER: Thank you. Are there any messages, reports, or announcements? []

CLERK: Mr. President, I have neither messages, reports, nor announcements at this time. []

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We will now proceed to the first item on the agenda, LB368A on General File. Absent Senator Erdman's presence at exec committee, we are going to move on to Select File and then return back for LB368A. Mr. Clerk, LR6CA. [LB368A LR6CA]

CLERK: Mr. President, LR6CA on Select File. Senator McGill, I have Enrollment and Review amendments, first of all. (ER8056, Legislative Journal page 925.) [LR6CA]

SENATOR FRIEND PRESIDING []

SENATOR FRIEND: Senator McGill, you are recognized for the E&R amendments.
[LR6CA]

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SENATOR MCGILL: Mr. President, I move the E&R amendments. [LR6CA]

SENATOR FRIEND: Members, you have heard the motion. All those in favor please say aye. All those opposed say nay. They are advanced. [LR6CA]

CLERK: Mr. President, Senator Avery has AM835. I have a note that he'd like to withdraw AM835. Senator Avery had AM1078. Again, I have a note that he'd like to withdraw AM1078. Mr. President, Senator Avery would move to amend with AM1085. (Legislative Journal pages 1235-1236.) [LR6CA]

SENATOR FRIEND: Senator Avery, you are recognized to open on AM1085. [LR6CA]

SENATOR AVERY: Thank you, Mr. President. If you will permit me, I'd like to just recap the main motion for about two minutes before going to the amendment. You will recall that LR6CA would put before the voters a constitutional amendment to Article XI, Section 1, which currently limits the types of investments that can be made by public endowments held by political subdivisions. You also recall that the current law dates back to 1875 in the constitution. It was originally meant to protect municipalities from financial risk. Also, the constitution was revised in 1966 to provide for investment of retirement and pension funds of political subdivisions in the same manner proposed in this legislation. But that amendment did not include public endowments. So what I'm trying to do is to get before the voters an amendment to the constitution that would allow public endowments to invest according to ordinary prudent investor standards. That is, investing funds wisely, acting with skill, care, and diligence, and protecting and benefiting the public interest. This is not tax money, this is public endowment money that would be used to create interest that could be then applied to important public investments and public programs. Returning now specifically to AM1085, there are two elements to this amendment. One is in Section 1, changing from the general election to a special election on May 13, 2008. We believe that it is better to put this on the ballot in the primary and if you want to talk about the reasons why that, we can do so. The second element of this amendment was the result of some conversations that Senator Gay and I had with Senator Chambers. You recall that Senator Chambers had raised objections to the original bill on General File. We had made some adjustments at that time. And Senator Chambers said that he would like to talk with me about additional changes. So on line 13 through 15, you will see the additional changes. And they read "the Legislature may authorize the investment of public endowment funds by any city which is authorized by this constitution to establish a charter." Now what that means is that cities that can establish a charter according to the constitution, which is defined in Article XI-2, are cities that are in excess of 5,000. I would not characterize Senator Chambers' discussion as a deal. I would characterize it as a friendly discussion of his objections to the original motion and how it emerged from General File. I believe that he continues to want to speak against this. I would urge the body, however, to give us the

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authority to use public endowment money in prudent investor manner so that we can generate more funds through interest earned on the principle of these public endowments so that we can have more money available for investing in worthy projects in communities. This is not just a Lincoln bill, although it does do a lot for the community endowment, health endowment here in Lincoln. There are opportunities all over the state where this could be done. You will note that in this amendment we drop out villages and school districts. Previously on General File, we amended out public power districts and other political subdivisions. So now it will be limited to cities of 5,000 or more. That is, cities that are authorized to create charters. With that, Mr. President, I will stop and listen to the debate and answer any questions. Thank you. [LR6CA]

SENATOR FRIEND: Thank you, Senator Avery. Members of the Legislature, you have heard the opening on AM1085 to LR6CA. There are members wishing to speak. Senator Chambers, you are first and you are recognized. [LR6CA]

SENATOR CHAMBERS: Thank you. And Mr. President, members of the Legislature, when you said, Senator Chambers, you are first, I want to thank you for that accurate description of my status in general. Senator Avery and I, and Senator Gay, did have some very good, and I think productive, discussion on this proposal. Senator Avery knows, I believe, that my opposition is to the policy. I don't think this is good public policy. However, in my opposition to this bill, you will have the opportunity to see that not everything that I oppose do I fight tooth and nail against. If the body is willing to accept this language, it will do so. I have serious doubts as to whether the public is going to vote in favor of amending the constitution in this fashion. Such being my belief, it would be very easy for me to just sit back and do nothing and await that outcome. But even if that outcome occurs, I want the record to be clear that I'm opposed to this as a policy. I do not believe that what is of concern to one city when it comes to a very small item ought to be a basis for amending the constitution, even if it constructs a wagon large enough for others to jump on if they choose. There was one project in Lincoln where a hospital was sold or something. They wound up with some money that was put into an endowment. To me, that is a local matter. But they prevailed on the Legislature over my opposition, which was not as strenuous as it could have been, a proposition very similar to this except that it included school districts and villages and a city of any size, no matter how miniscule, tiny, or miniature. Those things, as far as the school district, very small cities, villages, have been eliminated. Now the policy is the issue and I disagree with it. So I will vote against this. I'm not going to take a lot of time arguing against it. Senator Avery did good work on a poor product. Senator Carlson, is something like people give you a space, they want you to place a two-by-four in and you have to cut that two-by-four at the back of the Chamber and walk it up to the front of the Chamber. That's where you're going to have to put it. So you measure it with your hands and arms because you don't have a ruler or a tape measure. So you get the distance exactly because you put the left hand where one side of the board will go and the right hand where the other would go. But the problem is that as you walk toward the

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back of the Chamber, your hands tend to creep closer and closer together. So when you saw the board and you take it up there, it doesn't fit. Senator Avery has sawed a board. But in my view, it still doesn't fit into the framework of good public policy so I will oppose it. [LR6CA]

SENATOR FRIEND: One minute. [LR6CA]

SENATOR CHAMBERS: I think the reason they want to present this at a primary rather than a general election is because the conventional wisdom, if you can call anything wisdom related to elections, that more thoughtful people will appear to vote during the primary and they will read all of this language carefully and be more likely to be snookered than just the run-of-the-mill, garden variety citizen who will read this and say it's bad policy. And the garden varieties will turn out more during a general election. Thank you, Mr. President. [LR6CA]

SENATOR FRIEND: Thank you, Senator Chambers. Senator Avery, you're next and you're recognized. [LR6CA]

SENATOR AVERY: Thank you, Mr. President, and thank you, Senator Chambers, for those compliments and for your cooperation on this. He did mention that we are selecting to go, or electing to go to the primary with this issue. And he's right, it is for strategic reasons because I think it does enhance the prospects of getting the voters to amend it. And here is the reason. In the last election when this was on the ballot, I have a copy of it here, it was one of nine different ballot issues. And when we talked about this issue on General File, I referred to ballot fatigue. And I really do think that that is a problem that we have to be aware of. There are likely to be fewer ballot issues on the primary. It would be my hope that this amendment is the only one on the ballot in May of '08. But if not, it's unlikely to look like this. Nine different ballot issues and that does not include the two pages of candidate voting that the voters had to go through before they got to the ballot issues. And this is only, this part of the ballot that went to all counties in the state and then some of the counties had separate ballot issues as well. So you can see the wisdom, or at least the perceived or presumed wisdom, that goes behind this decision to seek to put this on the primary ballot. Senator Chambers mentioned that \$45 million was generated or some amount was generated by the sale of Lincoln General Hospital. It was \$45 million. And he also mentioned that this was a local matter. And in fact, it is a local matter. But it becomes a statewide matter because the constitution restricts what the city of Lincoln or what Grand Island or what North Platte might be able to do with such funds to get the maximum return. I believe that we are doing this right and I have had a meeting already with some key people in the private sector that are interested in putting together a winning team to get this passed in May of '08. And I believe that we can do it. And if I am wrong in that, I will come back to this Chamber and accept your criticism. Thank you. [LR6CA]

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SENATOR FRIEND: Thank you, Senator Avery. Senator Carlson, you're next and you're recognized. [LR6CA]

SENATOR CARLSON: Mr. President, members of the Legislature, I would also, starting here, remind Senator Chambers that needs to be careful. I read, the first shall be last and the last shall be first. And the other thing is, keep in mind a principle when cutting a board and in doubt, always cut it long. I stand in favor of AM1085 and LR6CA, Senator Avery's work. I like the idea that, follow the prudent investor rule. Whenever an investment is made, there are two risks. There's a risk in being too conservative and certainly there's a risk in being too aggressive. And hopefully this begins to reach a balance for cities in excess of 5,000 and hopefully perhaps in the future it could be expanded as it proves to work well. So I do support the bill. Thank you, Mr. President. [LR6CA]

SENATOR FRIEND: Thank you, Senator Carlson. Senator Gay, you are recognized. [LR6CA]

SENATOR GAY: Thank you, Mr. President. I rise in support of the amendment and the bill. Senator Chambers mentioned, there probably were instances, I think, where you need to be very cautious of how these funds are being invested, which size of communities, those kind of things. And I think that has been addressed by Senator Avery's amendment. Not every tiny little village could utilize this. The investment policy statements--which we're printing out and will be handing out, they're quite lengthy but the page is working on printing those and getting those out to you--are very detailed on what you can invest in. So this isn't just like three people getting together and deciding, well, maybe we should go buy this, that. They're very detailed as far as what kind of risk you can take, what investments you can make, and they can make these very personalized to fit the actual foundation or board or whichever program they're utilizing. But the trustees actually are responsible for making those decisions. They could also be sued personally. So they would be very cautious. This isn't just that they're investing willy-nilly with no supervision, no guidelines, or anything like that. So I think that's been addressed. One of the points, I suppose, today just in the paper we looked at what happens when you don't invest longer term. And I don't know all the details on that. But basically, it was a large sum of money that was being invested in very short-term investments for a long-term time horizon and the state probably lost, you know, \$12 million that they could have made up by taking just a substantially little more risk. So there are opportunities when you're looking at long-term horizons, benefits you could generate by investing a little more aggressive. And again, we're handing out those statements right now. But Senator Carlson made a good point. Sometimes you can be too conservative with these funds as well. And as tight as money is right now in different, you know, tax money and all that, I think this would expand the opportunities that communities could have for their programs. Senator Avery mentioned that on General File when we had this discussion. He showed the difference between an

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investment earning 6 percent versus the 3 percent. And you could do that by just tweaking your investment, add a little bonds on there and maybe a little growth. So when we hand these out, if you look through there, they're 22 pages and you can see very detailed on how this works, what they would have to follow. I assume, if Senator Avery would like to comment what he envisions this to be, because in his language, must follow the prudent investor rule, that would include an investment policy statement. So I think the language has been cleared up. Like I say, Senator Chambers makes very valid points. I think those have been addressed in the amendment and I'd urge any questions you may have, to bring them out now and those can be addressed here today. Thank you, Mr. President. [LR6CA]

SENATOR FRIEND: Thank you, Senator Gay. Senator Avery, you're next and this is your third time. You are recognized. [LR6CA]

SENATOR AVERY: Thank you, Mr. President, and thank you, Senator Gay. Senator Gay and I have worked on this quite a bit. One thing that I forgot to point out and hasn't been mentioned yet is that what this actually does is improve the amount of risk that is currently allowed in the constitution. For example, the constitution only permits investing public endowment funds in bonds. But it does not prevent the investment of those funds in junk bonds. This prudent investor standard would prevent that kind of investment. It would also prevent the investment in dangerous and risky penny stocks. As Senator Gay pointed out, the normal and usual practice in investment these days requires the preparation of an investment policy statement. And he has done very good work in putting together a sample policy statement. If you take a little bit of time to just thumb through this, you will see that municipalities that have public endowment funds that they wish to invest simply can't do this according to their whims and whatever desires, whatever back-of-the-pocket knowledge they might have about how the stock market works and how bond markets work. They would be required to establish clear objectives in the investment policy standard. They would have to identify their risk tolerance. They would have to also follow careful guidelines. There would be rules in the policy statement regarding compliance with regulations, various sorts. The investment policy statement is a guide. And, in fact, if the guide is not followed, as Senator Gay mentioned, then the trustees of the endowment would be subject to and liable to lawsuits. I think this is prudent. I think this is useful. I think it's essential that we allow these public endowments to invest in modern investment instruments. Currently they cannot do that and I think I used the analogy on General File that this a little bit like putting your money under the mattress and hoping it grows, under the current terms. We need to do this and I urge you to support this. Thank you. [LR6CA]

SENATOR FRIEND: Thank you, Senator Avery. Senator Wightman, you are recognized. [LR6CA]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the Legislature. I also

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rise in support of LR6CA. I have served on our Lexington Community Foundation on the board of directors for some 25 years. It's not a foundation that would be affected by this in that it's not a foundation maintained by any particular political subdivision. But over those years, I know that we have gone to more equity-based investments. I think you will find that in most instances, those investments will be either in very high-grade corporate stock or sometimes in perhaps convertible bonds, in balanced mutual funds. But probably it would be primarily in funds which, generally speaking, have had a much better record as far as growth over the years. One thing you have to keep in mind if these are endowment funds, usually that is maintained except for some special purposes and only the interest is used. And so you really are in there for a fairly long term, sometimes a very long term, and you can have a lot of growth in those. We've had much better growth since we went away from strictly fixed investments to a balanced portfolio. As a matter of fact, under the Prudent Investment Act, it's even possible to have liability if you invest too conservatively and don't take into account any risk at all because of the fact that you have such low growth. And Senator Gay mentioned that it has just come to light that \$12 million has been put away, squirreled away, whatever it might be, and has grown almost none. And I don't know how many years it has been there but it has just been forgotten about. So I think we do need to have investment professionals in these situations and allow a larger range of investment activities. So I do support the constitutional amendment or the legislative resolution providing for the constitutional amendment and hope that the body will support that as well. Thank you. [LR6CA]

SENATOR FRIEND: Thank you, Senator Wightman. Senator Louden, you are recognized. [LR6CA]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I would like to ask Senator Avery questions, if he would yield, please. [LR6CA]

SENATOR FRIEND: Senator Avery, will you yield to a question? [LR6CA]

SENATOR AVERY: I will. [LR6CA]

SENATOR LOUDEN: This amendment rewrites the whole bill, that's correct, isn't it? [LR6CA]

SENATOR AVERY: Only two portions of it, Senator. [LR6CA]

SENATOR LOUDEN: Okay. [LR6CA]

SENATOR AVERY: Changing the language from the general election in '08 to the primary in '08, and then the language in lines... [LR6CA]

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SENATOR LOUDEN: Well, nevertheless... [LR6CA]

SENATOR AVERY: ...I believe it's 14 through 17 that limits it to cities that are authorized by the constitution to create charters. That's cities of 5,000 or more. [LR6CA]

SENATOR LOUDEN: Okay, and that was part of the questions I wanted to get to. This is just for endowment funds from the city. In other words, they have to receive some type of an endowment from estates or sale of property or something like that. That's all that this allows them to invest any of those funds. [LR6CA]

SENATOR AVERY: Absolutely. No tax money is involved. In fact, in Lincoln we have a \$45 million endowment because we sold a public asset, general hospital... [LR6CA]

SENATOR LOUDEN: Yeah, Lincoln General Hospital. Yeah, this has been up here every year for five years so I understand that part. This one... [LR6CA]

SENATOR AVERY: But maybe it will win this time. [LR6CA]

SENATOR LOUDEN: This one is a little bit, coming along a little bit different. You may have improved on the matter. And then of course, my next question was the size of the town, then that is clearly in there, it has to be towns over 5,000 population? [LR6CA]

SENATOR AVERY: Yes, that's defined in the constitution in Article XI-2. And I might just add, if you don't mind if I take a little of your time, that there are 34 cities in the state that qualify under this language. [LR6CA]

SENATOR LOUDEN: Okay, that was one of the questions, I was wondering how extensive this is around. And then that investment, that will be controlled by the governing body of the city. That would be like your city council or just your mayor or who would have control over those endowments to do the investment? [LR6CA]

SENATOR AVERY: The members, the trustees of the endowment fund. They would work with an investment broker. The investment broker would prepare the investment policy statement. They would then agree to the terms of that statement. That would govern how the monies could be invested, how much risk the trustees were willing to accept. They could bar investments in certain industries if they wanted to for social reasons or political reasons, say such as tobacco. But this would certainly be all within the prudent investor standard that we talked about. [LR6CA]

SENATOR LOUDEN: Now then in order to have this endowment fund, these cities have to have some trustees of that endowment fund that's separate from the governing body. Is that what you're telling me? [LR6CA]

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SENATOR AVERY: Yes. That does not mean that a city councilperson could not sit on the board of trustees. [LR6CA]

SENATOR LOUDEN: But the city council wouldn't have, necessarily have direct control over that endowment fund? [LR6CA]

SENATOR AVERY: Absolutely not. [LR6CA]

SENATOR LOUDEN: They would have to go through some...and that is set up in statute someplace like that or... [LR6CA]

SENATOR AVERY: It is. It's under statutes that control public endowments, how they're structured. [LR6CA]

SENATOR LOUDEN: Okay. And that's already there... [LR6CA]

SENATOR AVERY: Yes. [LR6CA]

SENATOR LOUDEN: ...in another part of the deal. Okay. Well, thank you, Senator Avery. Like I said, this has been before us before but it's usually always considered a Lincoln deal. And it's been expanded somewhat so I presume that with diligence it will certainly help some of these other towns. Thank you, Mr. President. [LR6CA]

SENATOR FRIEND: Thank you, Senator Louden and Senator Avery. Senator Chambers, you are recognized. [LR6CA]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, in case I didn't make it clear, I am going to vote for Senator Avery's amendment. It is a quality amendment. But I will not vote for the bill. I'd like to ask Senator Avery a question or two. [LR6CA]

SENATOR FRIEND: Senator Avery, will you yield to some questions from Senator Chambers? [LR6CA]

SENATOR AVERY: Yes, I will, with some trepidation. [LR6CA]

SENATOR CHAMBERS: Don't worry, this is low-key for this morning. If I understood you correctly, you had said that under the existing language of the constitution where bonds could be invested in, junk bonds could be invested in. Did I understand you to say that? [LR6CA]

SENATOR AVERY: Yes, sir. [LR6CA]

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SENATOR CHAMBERS: Can junk bonds be invested in under this new language we're adopting? [LR6CA]

SENATOR AVERY: No. [LR6CA]

SENATOR CHAMBERS: How do you know a junk bond is a junk bond? [LR6CA]

SENATOR AVERY: A junk bond is a high-risk bond and that would not be prudent investor standard, it wouldn't meet the terms. [LR6CA]

SENATOR CHAMBERS: Excuse me, how will you know that it's high risk? [LR6CA]

SENATOR AVERY: Because of the nature of the bond, the bond is usually issued to support high-risk endeavors or companies that are having difficulty. [LR6CA]

SENATOR CHAMBERS: Could it be a high-risk project such as the Qwest Center in Omaha? And if they had issued revenue bonds to purchase those bonds when it was clear that they could not be paid off by the revenue, could those be considered a form of a junk bond? [LR6CA]

SENATOR AVERY: I don't think so because I believe the bonding authority of the city of Omaha was involved or would have been involved, and the bonding rating... [LR6CA]

SENATOR CHAMBERS: But here's the thing... [LR6CA]

SENATOR AVERY: ...of the city of Omaha is very high. [LR6CA]

SENATOR CHAMBERS: ...Omaha wound up issuing general obligation bonds which did make the city's reputation and its general fund money available. But a revenue bond will be paid off only from the revenue generated by the project for which the bonds are sold. [LR6CA]

SENATOR AVERY: Correct. [LR6CA]

SENATOR CHAMBERS: If the project does not make enough revenue, the bond holder is left having taken a risk and is going to be holding an empty sack. Now could such revenue bonds as the kind that I've described be considered junk bonds for the purpose of investing? [LR6CA]

SENATOR AVERY: They would not legally be considered junk bonds but I think my judgment and your judgment might classify them as junk bonds and given what we know about the circumstances surrounding the Qwest Center. [LR6CA]

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SENATOR CHAMBERS: Okay. [LR6CA]

SENATOR AVERY: And I think that's why they went with the general obligation bond instead of revenue. [LR6CA]

SENATOR CHAMBERS: Now did you say something about penny stocks? [LR6CA]

SENATOR AVERY: I did. [LR6CA]

SENATOR CHAMBERS: Could penny stocks be invested in under the language of this constitutional language? [LR6CA]

SENATOR AVERY: It's my opinion they cannot. [LR6CA]

SENATOR CHAMBERS: Now the Legislature could, through legislation, make it possible to invest in junk bonds and penny stocks, couldn't they? [LR6CA]

SENATOR AVERY: I think we could. [LR6CA]

SENATOR CHAMBERS: And that authority is given to the Legislature under the language in the constitutional amendment that's before us, correct? [LR6CA]

SENATOR AVERY: That is correct. I would hope that this body is more prudent. [LR6CA]

SENATOR CHAMBERS: You would hope. [LR6CA]

SENATOR AVERY: (Laugh) [LR6CA]

SENATOR CHAMBERS: Would you wish? [LR6CA]

SENATOR AVERY: I wish... [LR6CA]

SENATOR CHAMBERS: Might you drop a prayer? In other words... [LR6CA]

SENATOR AVERY: Drop a prayer. [LR6CA]

SENATOR CHAMBERS: ...you'd be (sings) "wishin' and hopin' and thinkin' and prayin'." [LR6CA]

SENATOR AVERY: (Laugh) And "prayin'." [LR6CA]

SENATOR CHAMBERS: All I'm trying to do is show that when you draft language of this

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kind, it's impossible to make everything as rock-solid as you'd like. But that's all I'll ask you, Senator Avery. Thank you. I'd like to ask Senator Carlson a question or two. [LR6CA]

SENATOR FRIEND: Senator Carlson, will you yield to a question or two? [LR6CA]

SENATOR CARLSON: Yes, I will. [LR6CA]

SENATOR CHAMBERS: Senator Carlson, when Senator Friend, acting as President, called on me to speak, he said, Senator Chambers, you're first... [LR6CA]

SENATOR FRIEND: One minute. [LR6CA]

SENATOR CHAMBERS: ...and then I made a comment about that. Then you made a comment about the book saying the first shall be last and the last shall be first, correct? [LR6CA]

SENATOR CARLSON: Yes, I did. [LR6CA]

SENATOR CHAMBERS: Had you heard about this incident where it was, the Olympics were in Rome and Italy was not doing well in this long distance race so this priest ran out beside the guy in first place and told him, brother, the first shall be last. The man was so surprised, he lost his stride and in fact did come in last. That was kind of unfair though, wasn't it? [LR6CA]

SENATOR CARLSON: That was kind of dirty, yes. [LR6CA]

SENATOR CHAMBERS: (Laugh) Okay, thank you. And thank you, Mr. President. [LR6CA]

SENATOR FRIEND: Thank you, Senator Chambers and Senator Carlson. (Visitors introduced.) On with discussion, AM1085 to LR6CA, Senator Rogert, you are next and you're recognized. [LR6CA]

SENATOR ROGERT: Thank you, Mr. President. I'll yield my time to Senator Avery. [LR6CA]

SENATOR FRIEND: Senator Avery, you have 4 minutes and 50 seconds. [LR6CA]

SENATOR AVERY: Thank you, Mr. President, and thank you, Senator Rogert. Just briefly, I mentioned that this would help other cities, it's not just Lincoln. Lincoln, of course, would benefit significantly because after nearly ten years of investing the community endowment money under the restrictive provisions of the constitution, the

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endowment has produced only a return of about 5 percent in bonds only. Had the trustees of the fund been able to invest in a diversified portfolio, including stocks, the return most probably would have been about twice that amount. In fact, after 1966 when the constitution was amended to allow the investment of pension and retirement funds in a prudent investor manner, the city of Lincoln's fire and police pension in just one fiscal year earned \$3,096,000...no, let me correct that. If the community health endowment had been able to use the same kind of provisions as the police and fire pension funds were used, they would have been able to earn more than \$3 million in one fiscal year over what they did. That's pretty significant money and that money goes to good causes. This is not tax money, this is publicly endowed money. I also mentioned that in North Platte they had an opportunity recently because an individual by the name of John Newburn (phonetic) bequeathed to the city of North Platte a public endowment of \$2.5 million for the purpose of helping the city in its recreational facilities. Problem was that it only earned about 2 to 3 percent. And under this amendment, they would have created a whole lot more money to be used for North Platte parks. I think this is good legislation. I do appreciate the questions that I received and the help I've received and certainly appreciate Senator Chambers working with me on this. I urge you to approve this amendment and then move on to LR6CA. Thank you. [LR6CA]

SENATOR FRIEND: Thank you, Senator Avery. (Doctor of the day introduced.) Senator Pankonin, you are recognized. [LR6CA]

SENATOR PANKONIN: Thank you, Mr. President, members of the body. I just want to stand in support of AM1085 and I appreciate the work of the senators involved. I had concerns about LR6CA initially for many of the reasons given, especially that the smaller communities and other jurisdictions would have a responsibility that they might not be able to discharge. And I appreciated getting the investment policy today. Senator Gay, it was definitely hot off the press. It was warm to the touch when I got it. But I had a chance to read through it and I especially like the guidelines on page 7 that had the general investment objectives and the fact that this must comply with the new prudent investor rule of 1992 and the fact that the objective is capital preservation instead of just going for ultimate yield. So I think we've made an improvement in this with AM1085. And although Senator Chambers is still against the concept, I appreciate his work as well to make this a better bill than what we had before. So I thank those that worked on it and I am in support of this amendment. Thank you. [LR6CA]

SENATOR FRIEND: Thank you, Senator Pankonin. Senator Avery, there are no other senators wishing to speak, you are recognized to close on AM1085. [LR6CA]

SENATOR AVERY: Thank you, Mr. President. I thank all of you who have spoken in support of this and again, I thank Senator Chambers for helping me work out the language in this amendment. And I urge you to pass it. Thank you. [LR6CA]

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SENATOR FRIEND: Thank you, Senator Avery. Members of the Legislature, you have heard the closing on AM1085. The question is, shall AM1085 be adopted to LR6CA? All those in favor please signify by voting aye; all those opposed vote nay. Have you all voted who care to? Record please, Mr. Clerk. [LR6CA]

CLERK: 37 ayes, 1 nay, Mr. President, on the adoption of Senator Avery's amendment. [LR6CA]

SENATOR FRIEND: The amendment is adopted. [LR6CA]

CLERK: I have nothing further on the bill, Mr. President. [LR6CA]

SENATOR FRIEND: Senator McGill, for a motion. [LR6CA]

SENATOR MCGILL: Mr. President, I move LR6CA to E&R for engrossing. [LR6CA]

SENATOR FRIEND: A machine vote has been requested. Members of the Legislature, the question is, shall LR6CA advance to E&R for engrossing? All those in favor please signify by voting aye; all those opposed vote nay. Have you all voted who wish to? Record please, Mr. Clerk. [LR6CA]

CLERK: 40 ayes, 1 nay on the advancement of LR6CA, Mr. President. [LR6CA]

SENATOR FRIEND: LR6CA does advance. Members of the Legislature, at this time we will return to General File, some skipped matter this morning will be readdressed. Mr. Clerk. [LR6CA]

CLERK: Mr. President, Senator Erdman offers LB368A. (Read title.) [LB368A]

SENATOR FRIEND: Senator Erdman, you are recognized to open on LB368A. [LB368A]

SENATOR ERDMAN: Mr. President and members of the Legislature, I apologize for not being here at the beginning of our deliberations this morning. The Executive Board was meeting and I was a part of that discussion. But I appreciate the opportunity to have LB368A brought back up on the agenda. The purpose of LB368A is to appropriate cash funds for the purposes of carrying out LB368, which you may recall from General File discussion as a Limited Cooperative Association Act. If the amendments on LB368 are adopted, there will be an amendment to this bill that will reduce the cash fund appropriations. And so we need this mechanism in place to allow those entities that would choose to organize under the Limited Cooperative Association Act to be able to remit the fees as well as the authority of the Secretary of State's Office to administer the program. Again, it's simply cash funds and we would encourage your support of LB368A

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to E&R. Thank you, Mr. President. [LB368A LB368]

SENATOR FRIEND: Thank you, Senator Erdman. There are senators wishing to speak. Senator Chambers, you are recognized. [LB368A]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, Senator Erdman is a young man. Not too many days ago, his youth was invoked against him. Senator Carlson started the quoting of the scripture this morning. I'm going to add something on behalf of my young colleague who is often wrong but he also is right on occasion. Senator Erdman, there was a fellow named Paul and some people hooked "the Apostle" onto his name. He was writing to a young man named Timothy, Timotheus. I will give you the book to go to and you can look through the chapters and find this verse, it's 2 Timothy. Let no man despise thy youth. Sometimes an opinion can be utilized which is not based on the facts of the specific situation, but rather a generalized notion. There have been at least two items in the World-Herald recently about the failure to promote and make use of women in the capacities and to take advantage of the abilities they have in the realms of directorships, management, and other high-level positions. So whenever a group of people are kind of pushed off to the side and marginalized only because they belong to a certain group, the society is the poorer for it. So in the same way that during all the time I've been in this Legislature and before I have been a staunch support of and advocate for women and their status in this society as equal and worth to white men. As a matter of fact, when I was chairman of a committee--many, many years ago--my committee was the Government and Military Affairs Committee and it was through that committee that the Equal Rights Amendment to the U.S. Constitution was processed. And I had so much delight that day because I as the chairman of the committee, a black man, my administrative assistant, Cindy Grandberry--who has persevered all these years--was sitting there, a black woman on my right hand. On my left hand was another black woman who was a student of political science at Creighton University. So here were three black people presiding over a hearing designed to amend the constitution through the adoption of that proposal at the state level, which would give white women equality in this country. Now people of my complexion have been marginalized and we do feel tremendous bitterness. I do, but I overcome it to the extent that I'm able to function in settings such as the Legislature. And my negative experiences--rather than putting me in a position and a frame of mind to say, I'm going to fix white people every time I get a chance to, when something bad comes through the Legislature that will hurt them, I'm either going to support it or I won't oppose it. That's not my view. I cannot do that. That's not what I came here for. [LB368A]

SENATOR FRIEND: One minute. [LB368A]

SENATOR CHAMBERS: So I do the best that I can with what I have to work with. Also a group that needs to be recognized comprises young people. Even though the book

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says old men for counsel, young men for war, sometimes young men give better counsel than the old men. As Christopher Marlowe said, cursed be he who first invented war. That may seem somewhat off the subject but I think it's appropriate because we have a youngster back here doing some very good work on this bill and he will do good work on other bills and he won't do such good work every now and then when he listens to some of his seat mates. Thank you, Mr. President. [LB368A]

SENATOR FRIEND: Thank you, Senator Chambers. Senator Erdman, there are no other senators wishing to speak. You are recognized to close on LB368A. [LB368A]

SENATOR ERDMAN: Mr. President and members, and Senator Chambers, I appreciate your comments to the extent that you're referring to young people doing a good job. I resemble that remark. I will help, as a young person, provide you some of that insight. It's actually 1 Timothy 4:12, it's not 2 Timothy. And I did mention that on Senator Harms' bill but you can go look that up as well. But, members, back to the bill, LB368A again authorizes the expenditure of cash funds for the purposes of carrying out LB368. And I would encourage your support. And we will have an amendment to LB368 on Select File that, if adopted, would require us to amend this on Select File to reduce the A bill. Thank you, Mr. President. [LB368A LB368]

SENATOR FRIEND: Thank you, Senator Erdman. Members of the Legislature, you have heard the closing on LB368A. The question is, shall LB368A advance to E&R Initial? All those in favor please signify by voting aye; all those opposed vote nay. Have you all voted who wish to? Record please, Mr. Clerk. [LB368A]

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of LB368A. [LB368A]

SENATOR FRIEND: LB368A does advance. Next item, Mr. Clerk? [LB368A]

CLERK: Mr. President, Select File. Senator McGill, LB343. I have Enrollment and Review amendments, Senator. (ER8062, Legislative Journal page 1029.) [LB343]

SENATOR FRIEND: Senator McGill, for a motion. [LB343]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB343]

SENATOR FRIEND: All those in favor please signify by saying aye. All those opposed say nay. They are adopted. [LB343]

CLERK: Senator Langemeier has AM981. I have a note that you want to withdraw AM981, Senator. [LB343]

SENATOR LANGEMEIER: Yes. [LB343]

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CLERK: Mr. President, Senator Langemeier would move to amend with AM1002. (Legislative Journal page 1179.) [LB343]

SENATOR FRIEND: Senator Langemeier, you are recognized to open on AM1002. [LB343]

SENATOR LANGEMEIER: Mr. President, members of the body, when we last left LB343 on General File, some of the discussion was, is how can we prevent an investor to invest in a biodiesel facility and not even have it open and collect your money. And Senator Chambers and I have talked about that. So I bring you AM1002. This takes the allowable credit to be spanned, you can only take it over a four-year period, which has a couple restrictions to it. First of all, you can't take more than 10 percent of it over the first two years with the balance of 50 percent of the remainder on the third year and the other remainder 50 percent on the four year. And also with that restriction on how much you can take each year, we put a provision in here that says the facility has to be operating at 70 percent of its rated capacity over any six months over the first two years of production to make sure these facilities are put in and are built to capacity and ready for capacity. And that is the summary of the amendment. And with that, I would...thank you, Mr. President. [LB343]

SENATOR FRIEND: Thank you, Senator Langemeier. Senator Erdman. Senator Erdman, you are next and you are recognized. [LB343]

SENATOR ERDMAN: Thank you, Mr. President and members of the Legislature. I would like to ask Senator Langemeier one question to clarify an interpretation under his bill that I believe is accurate, but I want to make sure it's in the record, if he would yield. [LB343]

SENATOR FRIEND: Senator Langemeier, will you yield to a question? [LB343]

SENATOR LANGEMEIER: Yes. [LB343]

SENATOR ERDMAN: Senator Langemeier, the language that we've adopted in LB343, both in the committee amendment and now under ER8062, refers to the entities that would be eligible to receive these tax credits. And it specifically lists limited liability companies, partnerships, cooperatives, including cooperatives that are exempt under Section 521 of the Internal Revenue Code, or any other pass-through entity that invests in a biodiesel facility shall be considered to be the taxpayer for purpose of the credit limitations. As we just discussed LB368A, that deals with a bill that I'm carrying this year, I would argue that that is a pass-through entity. And in our discussions, would you believe that that is an appropriate interpretation of this language? [LB343 LB368A]

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SENATOR LANGEMEIER: I would agree. [LB343]

SENATOR ERDMAN: Okay. Thank you, Senator Langemeier. Members, and just to follow up a little bit on that, Senator Louden also had asked a similar comment and I wanted it on the record on LB368 but also on LB343 because I do believe that this language allows for future entities, such as the one envisioned in LB368, to qualify under LB343 for the biodiesel tax credits, that they would have the same opportunities as other entities. We have double-checked that, as I said I would, with Senator Louden on my bill. I wanted to make sure that the record was clear here, that they would also be an eligible recipient should they become law, that they would be eligible under this tax credit opportunity for biodiesel production. Thank you, Mr. President. [LB343 LB368]

SENATOR FRIEND: Thank you, Senator Erdman. Senator Harms, you are next and you're recognized. [LB343]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise to support AM1002. I think that it's an important amendment and I support this bill. I think ethanol and biodiesel and wind energy and biomass is where we're going to be. That's the hope for Nebraska and the hope for rural Nebraska and its agricultural products. I have a couple questions I just wanted to ask Senator Langemeier, if I could please. Would you yield? [LB343]

SENATOR FRIEND: Senator Langemeier, will you yield to a couple questions? [LB343]

SENATOR LANGEMEIER: Yes. [LB343]

SENATOR HARMS: Thank you very much, Senator. When I look at this bill and look at where we're going with this, we talk about B100 pure biodiesel. Do we have enough by-products to be able to produce the amount that we want to make this a pure B100? [LB343]

SENATOR LANGEMEIER: I believe so. [LB343]

SENATOR HARMS: Okay. What is it going to take to be able to do that by acreage, do we know? [LB343]

SENATOR LANGEMEIER: The majority of the product used in this right now is animal fats and canola oils. [LB343]

SENATOR HARMS: Okay, thank you. [LB343]

SENATOR LANGEMEIER: And 17 percent is soybean so we haven't even tapped into our soybean resources. [LB343]

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SENATOR HARMS: All right. And also I know that we have the American Society for Testing and Material Standards that actually takes a good look at what we're doing with these plants. Could you help me better understand just exactly what they do and what kind of authority they have and what they will actually be looking at, please? [LB343]

SENATOR LANGEMEIER: The American Society is a Pennsylvania-based company that has a number of testing, worldwide testing facilities around the world that look at these products to ensure the accuracy and the quality of these products on a worldwide basis. So we make sure that these products are the same worldwide and that's their function. [LB343]

SENATOR HARMS: Okay, thank you. In regard to the fiscal note, when you look at the fiscal note for this bill and you look at the amount of revenue that we would lose from this, are you comfortable with that fiscal note, from \$1.1 million to over \$2 million later on? [LB343]

SENATOR LANGEMEIER: I guess there's no real way to know whether that is a correct note or not. That's an anticipatory number. Whether or not the facilities are built or aren't built, that could vary. [LB343]

SENATOR HARMS: Do you think that as we begin to pursue this, that we will have a large number of plants that will actually develop in Nebraska that will actually produce this B100, this pure biodiesel? [LB343]

SENATOR LANGEMEIER: We hope to. And then to protect this fiscal note, that's also why you'll see in this, actually the green copy that we've already adopted, LB343, is, number one, limiting the years you can apply for it as well as the amount of the credit does not perpetually go on. [LB343]

SENATOR HARMS: Well, I would just say thank you very much for what you're doing here. I think this is extremely important to rural America and the Nebraska economy. And I hope we will continue to develop other sources of energy and I hope that we'll go to the next level of energy. I know biomass is now in with ethanol and it's going to take us to that level. But we have a long ways to go. We have great opportunities in Nebraska. And Senator, I just thank you very much for what you're doing. I think it's going to help our economy and it's going to make Nebraska agriculture much stronger in the future. We just got to begin to look at the future and start thinking about and doing the research for the next level of energy because that's where we're going to have to go if we're going to be competitive. And I thank you very much for what you're doing here. [LB343]

SENATOR LANGEMEIER: Thank you. [LB343]

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SENATOR HARMS: Thank you, Mr. President. [LB343]

SENATOR FRIEND: Thank you, Senator Harms and Senator Langemeier. Senator Dubas, you are next and you are recognized. [LB343]

SENATOR DUBAS: Thank you, Mr. President, members of the body. I, too, rise in support of this amendment and the bill and thank Senator Langemeier for the work that he's done. Just as Senator Harms said, the diversity in our energy portfolio affords many, many economic benefits to the state of Nebraska. And we've got a lot invested in ethanol right now and we're seeing some of the rewards from that. And so I'm looking forward to expansion of the soy diesel industry, the wind industry, the biomass, the cellulose. I would like to see Nebraska be a state that is one of the leaders in the nation for alternative energy sources and that our university system steps up to the plate with research and development of these different types of projects. These could be very exciting times for the state of Nebraska and especially rural Nebraska in the development of these types of projects. I think what Senator Langemeier has done with this bill has been very thoughtful. He's looking at putting a program together that is going to do positive things. It's going to give us many paybacks on what we see invested. And so I'm looking forward to seeing this, soy diesel projects developed as well as many others across the state and look forward to the Legislature taking the lead and putting things in place that are going to allow these types of projects to move forward. So I appreciate what Senator Langemeier has done, support the bill and the amendment. Thank you. [LB343]

SENATOR FRIEND: Thank you, Senator Dubas. Senator Pirsch, you are recognized. [LB343]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I just wanted to rise in support of the bill. I think it's important that as we look toward economic development, that we take a very diversified perspective in looking at the portfolio that we have. I do have a constituent who does engage in this particular industry and sat down with him. And he did tell me that we are not, in this particular field, competitive with neighboring states. So I do appreciate that this bill, LB343, was brought forward and that we're paying attention to the issue towards diversified types of development. So with that, I will yield back the balance of my time. [LB343]

SENATOR FRIEND: Thank you, Senator Pirsch. Senator Chambers, you are next and you're recognized. [LB343]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, Senator Langemeier and I did have good conversations. I don't like these subsidized programs. They cannot make it on their own. But I think I gave Senator Langemeier

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reason to believe that I'm not going to oppose this bill, and I'm not going to oppose it. Senator Dubas is the reason that I'm on my feet his morning. She drew in one of the worst boondoggles of all, and that's ethanol. Now articles are starting to appear, even in the Nebraska media, pointing out issues that I brought up from the very beginning about ethanol, the high subsidies without which they cannot function. With all of these high public subsidies, they still are not...ethanol still is not priced in a way that shows it can be competitive on its own with petroleum-based products. More petroleum-based fuel and energy must be consumed to produce ethanol than ethanol can ever produce. Ethanol does not give out as much energy as petroleum-based products. So you have something which uses the very kind of fuel that you say you're trying to terminate your reliance upon. And it comes up with a product that produces less energy than that fuel which you say you want to become independent of. Ethanol will never make this country lose its dependence on foreign oil. Biodiesel is not going to do that either. Don't even mention those things and you won't get much return from me. Just say you're trying to find a way to line the pockets of investors and purveyors and speculators in these areas, because that's all that it is. Not all farmers are even going to benefit from what's happening with ethanol. The only way they will is because the price of corn has skyrocketed. So their corn will bring a higher price, not because they have anything directly to do with ethanol. And when that ethanol bubble goes burst, as happened with the "Silicone Valley" phenomenon, all of these farmers and other purveyors and investors are going to be whining and crying because that sack that is bursting now with gold coins, they think, is going to be a sack from which the bottom had been cut and everything drained out of it and all they have is an empty sack. Then they're going to be coming to the Legislature, where I probably will no longer be a member, to ask the state to bail them out somehow. And what the Legislature will point out is that commodity prices and all of the other things that relate to the production of these grains will be governed primarily by federal programs and you have to go to your representatives at the federal level to get a handout, to be bailed out. There always is a brighter picture painted when one of these--and when I say scams, I put that word in quotes--when one of these scams is to be foisted onto the public. Every single project, whether it's the federal government, state government, or city or county government, every project is always given a glowing rosy picture and it never, ever has panned out, never. [LB343]

SENATOR FRIEND: One minute. [LB343]

SENATOR CHAMBERS: And they never will. I saw where "PhillipsConoco," one word, capital P on Phillips and capital C on Conoco, hooking up with Tyson to use animal fats to produce some form of biodiesel. Billions of tons of animal fat are produced, or pounds anyway, and they can be converted to fuel. But the public, which is not paying attention, is going to wind up being the fall person by the time it's over. This is what they want in Nebraska, give it to them. But at least Senator Langemeier has hedged in this boondoggle in the way that ethanol had not been. Thank you, Mr. President. [LB343]

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SENATOR FRIEND: Thank you, Senator Chambers. Senator Wallman, you are recognized. [LB343]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. And I want to thank Senator Langemeier and refute some of the statements of Senator Chambers. But on biodiesel, this is a product that also uses animal fats, soy oil, and products we raise. And we do have incentives for foreign oil production, as you all know. We support Saudi Arabia, Iran, Iraq, you know, some of those countries. So that's direct money out of our economy. And this keeps money in our economy and it'll save us money in the long run. Granted, some of these programs may be oversold but most everything has to be. We take a long time to change in this country and we're almost like Missourians, but let's be Nebraskans. Let's jump on this bandwagon. And I really do thank Senator Langemeier for going forth with this because we're using animal fats and sometimes they reuse this through animals now. And we just will burn it in our pickups and cars. And I think diesel is going to be the way of the future, as I'm kind of a diesel nut. And so thank you, Mr. President. [LB343]

SENATOR FRIEND: Thank you, Senator Wallman. Senator Langemeier, there are no other senators wishing to speak. You are recognized to close on AM1002. [LB343]

SENATOR LANGEMEIER: Mr. President, members of the body, I just want to thank everybody for the great discussion and ask for your support on AM1002. Thank you. [LB343]

SENATOR FRIEND: Thank you, Senator Langemeier. Members of the Legislature, you have heard the closing on AM1002. Question is, shall AM1002 be adopted to LB343? All those in favor please vote aye; all those opposed please vote nay. Have you all voted who wish to? Record please, Mr. Clerk. [LB343]

CLERK: 38 ayes, 0 nays, Mr. President, on the adoption of Senator Langemeier's amendment. [LB343]

SENATOR FRIEND: The amendment is adopted. [LB343]

CLERK: I have nothing further on the bill. [LB343]

SENATOR FRIEND: There are senators wishing to speak. Senator Engel. Senator Engel waives his opportunity to speak. Senator McGill, for a motion. [LB343]

SENATOR MCGILL: Mr. President, I move LB343 to E&R for engrossing. [LB343]

SENATOR FRIEND: All those in favor please signify by saying aye. All those opposed say nay. The bill does advance. Mr. Clerk, next item? [LB343]

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CLERK: Mr. President, announcement first, if I may. Appropriations Committee will meet in 2022 now; Appropriations in 2022 immediately. Senator McGill, LB343A. I have no amendments to the bill, Senator. [LB343A]

SENATOR FRIEND: Senator McGill, for a motion. [LB343A]

SENATOR MCGILL: Mr. President, I move LB343A to E&R for engrossing. [LB343A]

SENATOR FRIEND: All those in favor please say aye. All those opposed say nay. It is advanced. Next item? [LB343A]

CLERK: LB218. Senator McGill, I have no amendments to the bill. [LB218]

SENATOR FRIEND: Senator McGill, for a motion. [LB218]

SENATOR MCGILL: Mr. President, I move LB218 to E&R for engrossing. [LB218]

SENATOR FRIEND: All those in favor please say aye. Pardon me, Senator Chambers. I was not looking at the queue. You are recognized to speak. [LB218]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, Senator Carlson's prophecy just came true. I was first earlier, I was last just now. But we got it worked out. I'd like to ask Senator Burling a question or two. [LB218]

SENATOR FRIEND: Senator Burling, will you yield to a question or two? [LB218]

SENATOR BURLING: Yes. [LB218]

SENATOR CHAMBERS: Senator Burling, is LB218 your bill? [LB218]

SENATOR BURLING: Yes. [LB218]

SENATOR CHAMBERS: Do you understand all of it? [LB218]

SENATOR BURLING: Oh, there's probably parts of it I don't, but I think I understand it pretty well. [LB218]

SENATOR CHAMBERS: Do you support the parts that you don't understand? [LB218]

SENATOR BURLING: I guess. [LB218]

SENATOR CHAMBERS: And do you support them because you have confidence in the

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people who do understand it and they told you that they're okay? Is that why you support those things you don't understand? [LB218]

SENATOR BURLING: Yeah. [LB218]

SENATOR CHAMBERS: They could be mistaken though, is that true? [LB218]

SENATOR BURLING: That's true. [LB218]

SENATOR CHAMBERS: And if they're mistaken, you would adopt their mistake by just having confidence in what they tell you; correct? [LB218]

SENATOR BURLING: That's probably true. [LB218]

SENATOR CHAMBERS: Senator Burling, have you read all of your bill? [LB218]

SENATOR BURLING: Yes. [LB218]

SENATOR CHAMBERS: Every word? [LB218]

SENATOR BURLING: Yes. [LB218]

SENATOR CHAMBERS: Can you pronounce every word in your bill? [LB218]

SENATOR BURLING: Well, it might take me a while to pronounce a couple of those, but I know what they mean. [LB218]

SENATOR CHAMBERS: Senator Burling, thank you. He has read all of his bill. And if he had answered that last question any way other than the way he did, I would continue my interrogation. But I'm satisfied. I think Senator Burling has a good bill here and I'm going to take his word for the part that maybe I don't understand, although in reality I read the bill, it came through the Judiciary Committee. There are some federal implications in this bill and I don't want anybody to get the impression that my little tete-a-tete with Senator Burling had anything to do with the merits of the bill. It's meritorious, I'm going to support it. But I just thought I would wake him up on my own this morning. Thank you, Mr. President. [LB218]

SENATOR FRIEND: Thank you, Senator Chambers. There are no other senators wishing to speak. Senator McGill, for a motion. [LB218]

SENATOR MCGILL: Mr. President, I move LB218 to E&R for engrossing. [LB218]

SENATOR FRIEND: You have heard the motion. All those in favor please say aye. All

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those opposed say nay. It is advanced. Next item, Mr. Clerk? [LB218]

CLERK: LB236. Senator McGill, I have Enrollment and Review amendments. (ER8067, Legislative Journal page 1089.) [LB236]

SENATOR FRIEND: Senator McGill, for a motion. [LB236]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB236]

SENATOR FRIEND: You have heard the motion. All those in favor please say aye. All those opposed say nay. They are adopted. [LB236]

CLERK: Senator Johnson would move to amend with AM1092. (Legislative Journal page 1237.) [LB236]

SENATOR FRIEND: Senator Johnson, you are recognized to open on AM1092. [LB236]

SENATOR JOHNSON: Mr. President and members of the Legislature, AM1092 contains provisions of three bills that were heard earlier in this session by the Health and Human Services Committee. The three bills are LB398 relating to optometry, LB399 to adopt a Perfusion Practice Act, and LB426 relating to pharmacy technicians. All three bills had no opposition at the public hearings and were advanced by the committee with no dissenting votes. All three bills have only a cash fund fiscal impact or no fiscal impact. All three bills are thought to be noncontroversial. Let me go through each of these bills. The first bill, LB398, recodifies statutes relating to the practice of optometry. It makes technical changes and makes no changes, makes no changes to the optometry scope of practice. It is essentially a nonsubstantive updating of optometry statutes. The bill amends the provisions relating to certification for the use of topical ocular pharmaceutical agents for the diagnostic and therapeutic purposes. Current law requires optometrists to complete a pharmacology course at an accredited institution recognized by the U.S. Department of Education and approved by the Nebraska Department of HHS Regulation and Licensure and they have to pass an examination approved by that department. LB398 provides for approval by the Board of Optometry instead of the department. This just is done for consistency purposes. There was neutral testimony at the hearing from a physician regarding this change. LB399, perfusion, this second bill adopts the Perfusion Practice Act. Perfusionists are the people who use artificial blood pumps to propel a patient's blood through the body tissues to replace the function of the heart during cardiac surgery when a person's blood is continuously removed and returned through this plastic tubing to allow the healthcare professional to perform an artificial organ function on the blood. It is called extracorporeal circulation, or outside the body circulation. Currently there are less than 40 of these perfusionists practicing in Nebraska. LB399 was introduced to implement

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recommendations of our 407 review process under the Nebraska Regulation of Health Professions Act. The bill includes the new Perfusion Practice Act within the uniform licensing law. The bill, as amended, creates a perfusionist committee under the Board of Medicine and Surgery consisting of two perfusionists and one physician whose clinical experience is with perfusionists. The physician member doesn't have to be a member of the Board of Medicine and Surgery. The perfusionist committee is modeled after the physicians assistants committee, which also functions under the board. The committee would be appointed by the State Board of Health. The bill defines terms. The bill requires perfusionists to be licensed and provides qualifications for licensure. The bill provides for licensure without examination and provides for issuance of temporary perfusionist license. The bill requires the completion of continuing competency activities on an annual basis and provides title protection for licensed perfusionists. The bill requires the department, within the recommendation of the board, to adopt and promulgate rules and regulations to carry out the act. The bill also requires the board to adopt and publish a code of ethics for perfusionists and maintain a record of licensed perfusionists. Lastly is LB426, this is the third and final bill. It adds new provisions relating to pharmacy technicians. As amended, the bill requires pharmacy technicians to be registered and creates a pharmacists technician registry. The bill clarifies the scope of practice for pharmacy technicians under written control procedures and guidelines established and approved by the Board of Pharmacy. Specifically authorized tasks are listed. The bill provides duties for HHS, a pharmacy that employs a pharmacy technician, and the pharmacists in charge of an employing pharmacy. The bill provides disciplinary measures for violations of the act and pharmacy technicians are required to report certain activities to the state. Pharmacy technicians are made exempt from the general professional reporting requirements in Section 71-168. That is the broad section that applies to all credentialed professions and occupations. Pharmacists interns are also exempt from that section. Pharmacy technicians are similar to pharmacy interns in that they lack the training and standing of the pharmacists; for example, to report on professional practice issues in the pharmaceutical world. The bill also revises immunity provisions relating to mandatory reporting. This change is made in response to a neutral testimony provided at the public hearing. The bill is amended to keep pharmacy technicians provisions within the Pharmacy Practice Act as they are now. Mr. President, what we have here then is two bills--the pharmacy technician bill and the optometry bill--which updates the...or rewriting regarding these people, and then a new group of the perfusionists. The perfusionists came to us with this request to create their own profession. With that, I would move adoption of this amendment. Thank you. [LB236 LB398 LB399 LB426]

SENATOR FRIEND: Thank you, Senator Johnson. Members of the Legislature, you have heard the opening on AM1092. Senator Johnson, there are no senators wishing to speak. You are recognized to close. Senator Johnson waives closing. The question is, shall AM1092 be adopted to LB236? All those in favor please vote aye; all those opposed vote nay. Have you all voted who wish to? Record please, Mr. Clerk. [LB236]

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CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Johnson's amendment. [LB236]

SENATOR FRIEND: The amendment is adopted. [LB236]

CLERK: I have nothing further on the bill, Mr. President. [LB236]

SENATOR FRIEND: Senator McGill, for a motion. [LB236]

SENATOR MCGILL: Mr. President, I move LB236 to E&R for engrossing. [LB236]

SENATOR FRIEND: Members, you have heard the motion. All those in favor please say aye. All those opposed say nay. It does advance. Next item, Mr. Clerk. [LB236]

CLERK: Mr. President, LB596. I have no Enrollment and Review. Senator Kopplin had an amendment, AM1015. Senator, I have a note you want to withdraw AM1015. Mr. President, Senator Kopplin would move to amend with AM1093. (Legislative Journal pages 1237-1241.) [LB596]

SENATOR FRIEND: Senator Kopplin, you are recognized to open on AM1093 to LB596. [LB596]

SENATOR KOPPLIN: Thank you, Mr. Speaker, members of the body. LB596 is a bill that deals with teacher retirement benefits. It is a part of the retirement bill so it would affect all of public school employees. However, most of them are covered by COLA. So this bill primarily affects the elderly retired teachers in Nebraska. What it does is raise the benefit paid to members of the retirement system to the greater of the original annuity with the cost of living increases or 90 percent of the purchasing power of the original annuity. This was amended on General File to become 85 percent. Today the amendment I bring to you is work done by the education groups in Nebraska; the NSEA, the administrators group, and the school boards group. They've been working together to change the rate of contributions by an employer so that no appropriation bill will be needed. What it does in AM1093, page 1, it strikes the language which would set the employee contribution rate at .0725 and replaces that with language that would set the rate at .0728. The employer's contribution would be 101 percent of that. The second part of the amendment deals with the retirement system for the Omaha Public Schools and it changes the contribution rate to 7.3, which they need. By doing that, this allows the public retirement system to be able to handle the increase that is needed to move the requirement to an 85 percent of purchasing power, which gives to those retired teachers an increase in their take-home. That's the amendment and we will be glad to answer any questions you may have. But it is simple. It removes the requirement that the state have an appropriations bill and moves it to the payment by public school

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employees and employers. Thank you, Mr. Speaker. [LB596]

SENATOR FRIEND: Thank you, Senator Kopplin. (Visitors introduced.) On with discussion of AM1093, Senator Synowiecki, you are recognized. [LB596]

SENATOR SYNOWIECKI: Thank you, Senator Friend, members of the Legislature. I want to, first of all, thank Senator Kopplin. He's done a lot of hard work on this bill. The original green copy of LB596 represented a General Fund hit, if you will, or a General Fund expenditure in excess of \$2 million. If you recall, when we were on General File on this bill, the committee amendment significantly mitigated that to around \$650,000 General Fund exposure. Subsequent to passage on General File, Senator Kopplin kept his word as he indicated on the floor of the Legislature, kept these groups together, and now we're looking at a zero impact relative to General Fund exposure to, I think, appropriately fund these retirements of these teachers, particularly the older teachers that have had a number of years of public service to our education system. I want to thank Senator Kopplin for his work on this and I'm glad that we're perhaps able to address this legitimate and demonstrative problem in the state of Nebraska with our older teachers' retirement incomes. The second section of this amendment, as Senator Kopplin indicated, addresses issues with the Omaha school employees' contribution rate. It essentially increases the teacher rate of increase to 7.3 percent and the employer contribution rate from 100 to 101 percent. This rate increase was based on an agreement between the Omaha school employees and the school district and is needed to keep the fund solvent into the future. The rate increase was advanced unanimously by the Retirement Committee under LB499. So I would encourage your support of the amendment. And I want to again express my genuine appreciation of Senator Kopplin on his work on this issue. Thank you. [LB596 LB499]

SENATOR FRIEND: Thank you, Senator Synowiecki. Senator Erdman, you are recognized. [LB596]

SENATOR ERDMAN: Mr. President and members of the Legislature, I appreciate the work done by Senator Kopplin. If you will recall on General File, he had mentioned that he would be bringing an amendment to do what he is doing before us and that is trying to reduce the obligation to the state to the extent possible and still provide the benefit that was presented to the committee in LB596. I also just wanted to state, after reviewing the amendment and looking at the language in Section 2, that it specifically does what Senator Kopplin said it would do on General File. And that is that it makes that obligation of the school employees and then the districts at 101 percent of that new number. And then secondly, that the provisions in Section 3 deal with the Omaha Public Schools issue. And as looking at that bill and having discussions with their representatives, the language in Section 3 does reflect the agreement of the committee to advance the bill. There was some additional language that was problematic, the way that it was worded. And at this point in reviewing the language, I believe that this is an

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appropriate step to take. And I believe the secondary issue that was contained in Senator White's bill that was not advanced in the committee amendment will be the subject of discussion by the Retirement Committee in the upcoming interim and possibly be part of the discussion for legislation in next session. So I wanted to make sure that Senator Kopplin knew that I had reviewed his amendment. Based on my concerns on General File, I believe this is a more appropriate way to go and thank him as well for his work and would look forward to any other discussion that the body may have. But I wanted to specifically thank Senator Kopplin and those that have worked on this to follow up on what their promise was on General File. Thank you, Mr. President. [LB596]

SENATOR FRIEND: Thank you, Senator Erdman. Senator Harms, you are recognized. [LB596]

SENATOR HARMS: Thank you, Mr. Chairman and colleagues. I rise to support this bill. Senator Kopplin, I appreciate what you're doing here. And to be honest with you, I think retirement after 30 years of teaching or 25 years of teaching and you get to the end and you take a look at your retirement and say, oh my, how can I survive on this. This does help us. It does encourage younger people to come into our profession in our public schools. And so I appreciate, Senator, what you've done with this and I support it and I believe that it's moving the right direction. Thank you, Mr. President. [LB596]

SENATOR FRIEND: Thank you, Senator Harms. Senator Pirsch, you are recognized. [LB596]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I was wondering if Senator Erdman would yield for a question. [LB596]

SENATOR FRIEND: Senator Erdman, will you yield to a question of Senator Pirsch? [LB596]

SENATOR ERDMAN: I would. [LB596]

SENATOR PIRSCH: Thank you, Senator. I think Senator Synowiecki had earlier commented that originally the appropriation that was forecast for this particular bill was in the millions of dollars and then I note that it was amended. And then you had commented on that. Are you indicating, will this be revenue neutral so as not to draw on the General Fund then? [LB596]

SENATOR ERDMAN: Senator Pirsch, it would be my understanding and in visiting with others as well, LB596 as introduced would have authorized an A bill of approximately \$856,000 at that 85 percent level. It was approximately \$2.1 million at the 90 percent level. And that's consistent with what Omaha has in their plan. With this language, what it does is it allows or it requires the employees, the existing employees to share in the

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cost of this benefit to the retirees. But part of the cost would still come back to the districts. So potentially there is still a cost to the state in the state aid formula as the districts needs and resources are calculated. But that cost is less, given the fact that the employees who are currently in the system will be assisting and paying for this enhancement. [LB596]

SENATOR PIRSCH: Okay, thank you very much for your answer to that question. I appreciate the comments of all the senators who had previously spoke. I'll yield back the balance of my time. [LB596]

SENATOR FRIEND: Thank you, Senator Pirsch and Senator Erdman. Senator Wallman, you are recognized. [LB596]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I too want to thank Senator Kopplin. I'm married to a retired school teacher and I do know teachers. I've spoke to senior citizens who were retired teachers who would like this relief to help them out. They get literally nothing, some of the older teachers. And I know some teachers in their upper 80s. And so I want to respect all these people who worked on this bill. And it's needed, I think, I feel. And let's respect the teachers. Thank you, Mr. President. [LB596]

SENATOR FRIEND: Thank you, Senator Wallman. Senator Kopplin, there are no other senators wishing to speak. You are recognized to close on your amendment. Senator Kopplin waives closing. Members of the Legislature, the question is, shall AM1093 be adopted to LB596? All those in favor please signify by voting aye; all those opposed vote nay. Have you all voted who wish to? Record please, Mr. Clerk. [LB596]

CLERK: 37 ayes, 0 nays on adoption of Senator Kopplin's amendment, Mr. President. [LB596]

SENATOR FRIEND: The amendment is adopted. [LB596]

CLERK: I have nothing further, Mr. President. [LB596]

SENATOR FRIEND: There are senators wishing to speak. Senator Raikes, you are recognized. [LB596]

SENATOR RAIKES: Thank you, Mr. President and members. I wanted to follow up on a point that Senator Erdman made, if he would yield to a question. [LB596]

SENATOR FRIEND: Senator Erdman, will you yield to Senator Raikes for a question? [LB596]

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SENATOR ERDMAN: I would. [LB596]

SENATOR RAIKES: Senator, this bill as being presented is one that is revenue neutral or cost neutral, I guess you should say, to the state. But actually, it would, as you described, it wouldn't impact the state fiscally in the current biennium but there potentially would be an impact fiscally as you go down the road. Is that a fair restatement of your point? [LB596]

SENATOR ERDMAN: I think that is accurate, Senator Raikes. The comment that Senator Kopplin made was that this would not have a specific A bill to follow the bill. I think that's accurate to the extent that existing programs pick up the district's contribution that's outlined in here. It may have an impact on state aid to schools. But his comment, and I think it should be clear, it's not that this bill is revenue neutral, it's that this bill doesn't require a separate A bill. I think that was what he was trying to get at... [LB596]

SENATOR RAIKES: Okay. [LB596]

SENATOR ERDMAN: ...and my comments were to explain why that was for the body. So I think you have restated it accurately. It may have a cost to the state under a different existing formula. But it will not have a separate A bill to fund it. [LB596]

SENATOR RAIKES: Okay. And the cost would come about because retirement expenditures by school districts are part of General Fund operating expenses. The General Fund operating expenses in turn drive the needs calculation in the aid formula. The higher are those needs, the higher is the state aid obligation to school districts. So again, it wouldn't happen in this biennium. But down the road, this sort of a proposal would have an impact. The second thing I wanted to just ask, as my expert in retirement, is there not a provision that you can't increase the retirement contribution of an employee unless there is a corresponding increase in the benefits to that employee? [LB596]

SENATOR ERDMAN: I think that's a generalization of the public policy that we have and are held to, both in case law and in our policies. One of the arguments made at the hearing by Michael W. Smith, who is the administrator of the Omaha School Employees Retirement System, was having an actuarially sound plan is an enhanced benefit. But I think your analysis is right. Senator White would probably be more appropriate as he has experience in the law here. But you're generally correct in that we cannot do that unless there is an agreement or unless there is an enhanced benefit that corresponds. In this case, we do have an agreement by the affected parties. We also have an agreement on the affected parties in Omaha in the third section of the Kopplin amendment that would also stand under scrutiny under your scenario. So there is that fine line that we have to walk. But Senator White would probably be able to provide you

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additional legal expertise as to why that requirement is in law. [LB596]

SENATOR RAIKES: So your understanding of the agreements are, on the part of the employees, we agree to do this even though we don't see, we understand that we're going to be contributing more, but we won't realize additional benefits? [LB596]

SENATOR ERDMAN: They will not realize benefits beyond the ones that they have and the ones that they do have will be actuarially sound. That, I believe, is their agreement. I believe that is their agreement, that we're not giving them an enhanced benefit directly but to the extent that they would benefit long term from this change in public policy as some may and some may not, they, on their individual circumstances, may see a benefit. So it's not a, it's not like we're giving a benefit to, say, spouses of judges as we have in the past, where all were entitled to it. It has to be a little more, there has to be a little more scrutiny. But to your general comment to back up, I think your point is well-taken that... [LB596]

SENATOR FRIEND: One minute. [LB596]

SENATOR ERDMAN: ...if we do proceed without an enhanced benefit, short of an agreement from those who are affected, we have some hoops that we would have to go through to prove that. [LB596]

SENATOR RAIKES: Okay. Thank you for your help on that matter, Senator. Thank you, Mr. President. [LB596]

SENATOR FRIEND: Thank you, Senator Raikes and Senator Erdman. Senator Kopplin, you are recognized. [LB596]

SENATOR KOPPLIN: Thank you, Mr. Speaker, members of the body. I'd like to just comment a brief moment on the effect on state aid because Senator Raikes is correct. There will be an effect as we do down the road. Aid for the '07-08 school year is based upon expenditures of '05-06, so there would not be an effect. Aid for '08-09 is based upon the '06-07 expenditures. It wouldn't have effect. Aid for '09 and '10 is based on '07-08, so it would have an effect. It would be the difference between the proposed rate for the employers of .0732, which would become .0735 under this bill. It will probably not be a noticeable amount because the current rate is higher than that. So we will see a drop. We just won't see the complete drop that might have been expected. The other thing to keep in mind is that costs such as retirement funds, health insurance and all that, is all part of a negotiated agreement with the teachers. They agree on a final number which includes all these things. So if we would not increase the retirement, you may very well be increasing salary at that point. So you really cannot tell the entire effect of this. But certainly I would not try to tell someone there was not an effect. There is one. It's a relatively...it would be approximately half of the agreed amount, which

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would be in the \$300,000 range. Thank you, Mr. Speaker. [LB596]

SENATOR FRIEND: Thank you, Senator Kopplin. Senator Synowiecki, you are recognized. [LB596]

SENATOR SYNOWIECKI: Thank you, Senator Friend. I kind of pick up on what Senator Kopplin was discussing. The percentage rates are scheduled, are right now 7.83 percent that school teachers put in relative to their salary into their retirement. That will...and that was one of the moves we made to help mitigate General Fund exposure a couple years back. That sunsets and is scheduled to go to 7.25 percent in September of '07, I believe, 7.25 percent. So essentially the amendment that was adopted would raise that 7.25 percent to 7.28 percent. As Senator Kopplin I think characterized it, almost an unnoticeable amount. So in essence, teachers really are stepping up to the plate relative to helping to mitigate the situation for these older teachers that have insufficient retirement income. So just to kind of add to the discussion, and I appreciate the discussion, but the current rate of teacher contribution is 7.83 percent and that's scheduled to go to 7.25 and the amendment just adopted would then bring it to 7.28. Thank you. [LB596]

SENATOR FRIEND: Thank you, Senator Synowiecki. Senator Kopplin, there are no other senators wishing to speak. You are recognized to close on LB596. [LB596]

SENATOR KOPPLIN: Thank you, Mr. Speaker, colleagues. This is a good bill. It's been needed for a long time. It has never advanced as far as it has this session. I hope you will consider it carefully and pass it please. Thank you. [LB596]

SENATOR FRIEND: Thank you, Senator Kopplin. Senator McGill, for a motion. [LB596]

SENATOR MCGILL: Mr. President, I move LB596 to E&R for engrossing. [LB596]

SENATOR FRIEND: Members of the Legislature, you've heard the motion. All those in favor please say aye. All those opposed say nay. LB596 does advance. Next item, Mr. Clerk. [LB596]

CLERK: LB368. Senator McGill, I have Enrollment and Review amendments, first of all. (ER8071, Legislative Journal page 1184.) [LB368]

SENATOR FRIEND: Senator McGill, for a motion. [LB368]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB368]

SENATOR FRIEND: You've heard the motion. All those in favor please say aye. All those opposed say nay. They are adopted. [LB368]

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CLERK: Mr. President, Senator Erdman would move to amend with AM1065.
(Legislative Journal page 1241.) [LB368]

SENATOR FRIEND: Senator Erdman, you are recognized to open on AM1065. [LB368]

SENATOR ERDMAN: Mr. President and members of the Legislature, when we left discussion on LB368 on General File, I had pointed out that there would need to be some additional amendments offered to clarify this act compared to Nebraska law. As you may recall, this is based on a National Commission of Law Commissioners draft. And there are things in that draft that always are universal and not specific to individual states. Nebraska has different reporting requirements, such as, instead of an annual report requirement, we have a biannual report requirement. There are other things that are there. This amendment is not substantial in the sense that it changes the public policy. It is technical in the sense that it corresponds the language in LB368 to Nebraska practices as reflected how we treat limited liability companies and other entities. It is designed to be conforming, and it is. One of the things that we are changing as part of a public policy but again is designed to be conforming is that we're changing the term "participant" to "member." That is a reflection of the most recent draft of the NCCUSL draft. And so those are the technical changes that are contained in AM1065. You will notice that it is a white copy of the bill. It is done that way due to the fact that we had so many lines and pages that would have had to been corrected, that the amendment would have been probably 10 or 12 pages long. We have simply rewritten the bill in a white copy. To the extent that it gets adopted, it will be in the form necessary to be voted on on Final Reading. So it is in a correct form. It is a preliminary step that we believe is more appropriate than giving you the seven pages that I have of single page and line references. I would encourage the Legislature's adoption of this amendment and would stand to answer any questions pertaining to it if I could. Thank you, Mr. President. [LB368]

SENATOR FRIEND: Thank you, Senator Erdman. Members of the Legislature, you've heard the opening on AM1065. Senator Erdman, there are no senators wishing to speak. You are recognized to close on AM1065. Senator Erdman waives closing. Members of the Legislature, the question is, shall AM1065 be adopted to LB368? All those in favor please signify by voting aye; all those opposed vote nay. Have you all voted who wish to? Record please, Mr. Clerk. [LB368]

CLERK: 37 ayes, 0 nays, Mr. President, on the adoption of Senator Erdman's amendment. [LB368]

SENATOR FRIEND: The amendment is adopted. [LB368]

CLERK: I have nothing further on the bill, Mr. President. [LB368]

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SENATOR FRIEND: Senator McGill, for a motion. [LB368]

SENATOR MCGILL: Mr. President, I move LB368 to E&R for engrossing. [LB368]

SENATOR FRIEND: You have heard the motion. All those in favor please say aye. All those opposed say nay. It is advanced. Next item. [LB368]

CLERK: Mr. President, LB73. Senator McGill, I have Enrollment and Review amendments on LB73. (ER8072, Legislative Journal page 1192.) [LB73]

SENATOR FRIEND: Senator McGill, for a motion. [LB73]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB73]

SENATOR FRIEND: Members, you've heard the motion. All those in favor please say aye. All those opposed say nay. They are adopted. [LB73]

CLERK: Senator Chambers would move to amend with FA88. (Legislative Journal page 1241.) [LB73]

SENATOR FRIEND: Senator Chambers, you are next and you are recognized. [LB73]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, the last time this bill was up on General File, some language that was in the green copy of the bill that would have removed some prorating language was put back in. So the E&R amendment contains the existing language of the law, which would be that proration language. The reason I want to take that out, and that's what my amendment would do, is that this bill and the funding of it is never going to cost much money. Never. If the state winds up in a fiscal bind, it will not be because of this program. There are other programs where considerably more money might be spent but no such proration language is there. I'd like to ask Senator Raikes a question or two. [LB73]

SENATOR FRIEND: Senator Raikes, will you yield to a question or two? [LB73]

SENATOR RAIKES: I will. [LB73]

SENATOR CHAMBERS: Senator Raikes, would you agree, and I know these might be leading questions, would you agree that this proration language is almost an invitation to the state to attack this program if it becomes necessary to find someplace to make cuts in spending? [LB73]

SENATOR RAIKES: I think at one point that would have been a fair characterization,

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Senator Chambers. I'm not sure it would in this context. In fact, the reason that's in...well... [LB73]

SENATOR CHAMBERS: Go ahead. [LB73]

SENATOR RAIKES: One of the reasons it's in there is that before, particularly before the program was to be funded two years in arrears as it would be now in the bill, it was basically a guessing game for the Appropriations Committee and the Legislature as to how much money it would take. And given that they didn't know how much money was there, you needed a mechanism in place so that it could be prorated because very likely they weren't going to guess correctly. Now that the language is two years in arrears, in addition to the proration, my understanding is that--or my belief is, I should say--that it's likely that the Appropriations Committee and the Legislature would, knowing the amount of money, not prorate it but just simply fund it. [LB73]

SENATOR CHAMBERS: So what you're really saying, if I can try to put it in layperson's language that I can understand, having been educated at OPS, no longer is this going to be an open-ended type program, but knowledge will be there and an amount can be appropriated to cover what the program will cost from this point onward. Is that what you were saying, more or less? [LB73]

SENATOR RAIKES: That's my belief as to what the result of this, the bill as it stands now, would be. [LB73]

SENATOR CHAMBERS: And now we don't even need the proration language because the matter that it was designed to address is no longer in existence, in all practical effect. [LB73]

SENATOR RAIKES: Well, you did say though in your earlier comments, Senator, that if the state ever ran into a bind severe enough that they had to cut back on everything, which you will remember is the way it was in 2003 or whatever that was, then it may be that the proration language would be needed. And the way the bill is now, if it would be needed, it would be there. But it's my belief that in the circumstance the state finds itself now fiscally, that that proration language would not be used. [LB73]

SENATOR CHAMBERS: Thank you, Senator Raikes. Members of the Legislature, Senator Carlson and I often banter back and forth. Very recently, the U.S. Supreme Court handed down a decision upholding a ban against late-term abortions, misnamed, which is not a medical term, so-called late-term abortions. There was great joy among people who are opposed to all abortions. And I can understand that. I'm concerned about children in being. This program deals with children in being. The amount of money is not exorbitant. If the state gets in a financial bind, this is not the kind of program the state should look at as a place to cut. This is money that will benefit

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children. In the minds of some, there may be school districts where the children who would benefit from this breakfast program need not be in it because of the wealth or whatever else is involved. I do not believe and never will believe that those in need ought to be cut off because somebody who does not need may be able to sneak in and get something. There can be no argument that this lunch program benefits children who need some assistance in obtaining proper and adequate nutrition. I do not believe that the proration language is necessary. If in the future problems become so severe, and I don't envision that happening, at that point something like this might be considered. But to select this program when other programs do not have such language, I think is inappropriate now. Senator Raikes explained that before the amendment, I don't know if it was offered by Senator Langemeier or Senator Heidemann, would make it possible for the state to always know how much money is going to need to be appropriated to reimburse for these lunches. If you have any questions, I'll answer them, but I hope you will adopt this amendment. Feed the hungry, the least of these. Thank you, Mr. President. [LB73]

SENATOR FRIEND: Thank you, Senator Chambers. Senator Pahls, you are recognized. [LB73]

SENATOR PAHLS: Mr. President, members of the body, this just gives me one more time to make sure the administrators who do not use this program--because using the data that I received from some of the literature that was handed to us, around 600-some schools use this program out of potential thousand who do have the lunch program. So there's a good number of them who do not. And I think some of that is attributed to the administrators who do not use this program. And as I said earlier when I was talking about this, you can be from any district. And we do have children who do need this help. Thank you. [LB73]

SENATOR FRIEND: Thank you, Senator Pahls. Senator Chambers, there are no other senators wishing to speak. Senator Chambers waives closing. The question is, members, shall FA88 be adopted to LB73? All those in favor please signify by voting aye; all those opposed vote nay. Have you all voted who wish to? Record please, Mr. Clerk. [LB73]

CLERK: 32 ayes, 2 nays, Mr. President, on adoption of the amendment. [LB73]

SENATOR FRIEND: The amendment is adopted. [LB73]

CLERK: I have nothing further on the bill, Mr. President. [LB73]

SENATOR FRIEND: Senator McGill, for a motion. [LB73]

SENATOR MCGILL: Mr. President, I move LB73 to E&R for engrossing. [LB73]

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SENATOR FRIEND: Members, you have heard the motion. All those in favor please say aye. All those opposed say nay. It is advanced. Senator McGill, for a motion. [LB73]

CLERK: Senator, LB73A. I have Enrollment and Review amendments, Senator. (ER8073, Legislative Journal page 1193.) [LB73A]

SENATOR FRIEND: Excuse me, Mr. Clerk. [LB73A]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB73A]

SENATOR FRIEND: Members, you have heard the motion. All those in favor please say aye. All those opposed say nay. The amendments are adopted. [LB73A]

CLERK: I have nothing further on LB73A. [LB73A]

SENATOR FRIEND: Now, Senator McGill, for a motion. [LB73A]

SENATOR MCGILL: Mr. President, I move LB73A to E&R for engrossing. [LB73A]

SENATOR FRIEND: All those in favor please say aye. All those opposed say nay. The bill does advance. Mr. Clerk, items for the record? [LB73A]

CLERK: I do, Mr. President. Your Committee on Business and Labor, chaired by Senator Cornett, reports LB609 to General File. Enrollment and Review reports LB367, LB316, LB316A to Select File. [LB609 LB367 LB316 LB316A]

New A bills: LB367A by Senator Janssen. (Read LB367A by title for first time.) LB280A by Senator Stuthman. (Read LB280A by title for first time.) Senator Stuthman, an amendment to LB157 to be printed. New resolutions: Senator Pirsch, LR82; Senator White, LR83; Senator Erdman, LR84. Those will all be laid over. (Legislative Journal pages 1242-1248.) [LB367A LB280A LB157 LR82 LR83 LR84]

An announcement, Revenue Committee will meet at 1:30 in Room 2022; Revenue Committee, 1:30, Room 2022. Senator Kruse would move to recess, Mr. President, until 1:30 p.m. []

SENATOR FRIEND: Members, you have heard the motion to recess until 1:30 p.m. All those in favor please say aye. All those opposed say nay. We are in recess. []

RECESS []

SENATOR LANGEMEIER PRESIDING []

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SENATOR LANGEMEIER: Good afternoon, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. []

SENATOR FRIEND PRESIDING []

SENATOR FRIEND: (Visitors introduced.) Members, the afternoon session is about to commence. Please check in. Record please, Mr. Clerk. []

CLERK: I have a quorum present, Mr. President. []

SENATOR FRIEND: Thank you. First item, Select File. []

CLERK: LB674, Select File. Senator McGill, I have Enrollment and Review amendments, first of all. (ER8074, Legislative Journal page 1199.) [LB674]

SENATOR FRIEND: Senator McGill, for a motion. [LB674]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB674]

SENATOR FRIEND: Members, you have heard the motion. All those in favor please say aye. All those opposed say nay. The amendments are adopted. [LB674]

CLERK: Senator Mines would move to amend with AM1045. (Legislative Journal pages 1249-1254.) [LB674]

SENATOR FRIEND: Senator Mines. [LB674]

SENATOR MINES: Thank you, Mr. President. [LB674]

SENATOR FRIEND: You are now... [LB674]

SENATOR MINES: Thank you, Mr. President. [LB674]

SENATOR FRIEND: You are now recognized to open... [LB674]

SENATOR MINES: Thank you, Mr. President. [LB674]

SENATOR FRIEND: ...on AM1045. [LB674]

SENATOR MINES: Thank you, Mr. President (laughter) and colleagues. AM1045 is an amendment to LB190 that was amended by the Banking, Commerce and Insurance

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Committee and advanced to General File. AM1045 would allow consumers to effect a security freeze on their personal credit information. I'd like to acknowledge Senator Lathrop for his cooperation and support of this amendment to LB674. Annually, almost 10 million Americans find themselves victims of identity credit card fraud and security breaches, as well as debit card and credit card account fraud. And AM1045 would allow Nebraskans to voluntarily, and I will state voluntarily, place a security freeze or also known as a credit freeze on their personal data that's compiled by the credit reporting agencies like...there are three main ones: Experian, TransUnion, and Equifax. Plainly, a credit freeze restricts dissemination of a credit report, a credit score, or any other information that's derived from the file to a third party without prior express authorization by the consumer. Without this information businesses cannot issue new credit, and that's a good thing. Consumers can choose to make their credit information available for a defined period of time, and this is called, in the business, a credit thaw, t-h-a-w, thaw. And the process involves using a personal identification number to unlock access to one's credit information. There are 27 states and the District of Columbia have similar laws to the amendment that's being proposed today, and all other states are considering legislation of this nature during their session. Here's how a credit freeze works. A consumer voluntarily chooses to place a security freeze on his or her file by submitting a bona fide request via certified mail to the three credit reporting agencies. These agencies then have three days to freeze the consumer's information. The Banking, Commerce and Insurance Committee amended LB190, the original bill, to provide that a minor can freeze his or her file at the request of the parent, custodial parent, or the guardian, if appointed. After an account is frozen, consumer reporting agencies must send written confirmation to the consumer that the security freeze is active and then provide them with a unique personal identification number. That can be used as authorization to release credit information for a specified amount of time. The amendment allows agencies ten days to process confirmation, and after July 1, 2008, they'll have five days. To thaw or temporarily lift a freeze on an account, a consumer simply contacts the credit reporting agencies and provides a proper identification, his or her PIN, and proper information regarding the specified time period. The amendment also directs credit reporting agencies to lift the freeze within three days after a bona fide request, and beginning January 1, 2010, credit bureaus are required to have procedures involving the use of a telephone, the Internet, or other electronic media to receive and process requests from a consumer, and temporarily lift the security freeze on his or her file within 15 minutes. So initially a credit thaw can take up to three days, and after 2010--January 1, 2010--that's reduced to 15 minutes. The security freeze stays in place until the consumer asks that the freeze be lifted. Credit bureaus can charge a fee of \$5 for placing, temporarily lifting, or removing a freeze, but the fee cannot be charged to victims of identity theft. This is a fundamental tool for all Nebraskans who are concerned about the security of their good credit. As I mentioned previously, this amendment was originally LB190, amended by the Banking, Commerce and Insurance Committee. It advanced to General File by a vote of 7-0, and the committee designated this bill as their second priority. There was limited opposition to

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the bill, primarily from one of the credit bureaus, Experian, and the retail federation. Between the time of the hearing and today, we have worked with all parties concerned. Their issues are addressed and I would urge the body to advance AM1045. Thank you, Mr. President. [LB674 LB190]

SENATOR FRIEND: Thank you, Senator Mines. Members, you have heard the opening on AM1045. There are members wishing to speak. Senator Lathrop, you are first and you are recognized. [LB674]

SENATOR LATHROP: Thank you, Mr. President and colleagues. You will recall that LB674 was the bill dealing with Social Security numbers in the employment place, and we discussed it on General File last week. After that bill was heard on General File, Senator Mines approached me wanting to amend LB190 into LB674, and I've read LB190 and I support this amendment enthusiastically. The problems with identity theft are rampant. This is another tool. It is another way to get ahead of those people who would steal by using another's credit, and I think the bill is well drafted, well thought through. And of course the Banking and Commerce Committee put it out 7-0, and I would encourage you to support the amendment, as well as LB674 on Select File. Thank you. [LB674 LB190]

SENATOR FRIEND: Thank you, Senator Lathrop. Senator Gay, you are recognized. [LB674]

SENATOR GAY: Thank you, Mr. President. I rise in support of the amendment and I also supported the initial bill and I'm pleased to see this amendment to be placed on LB674. Earlier I had reservations on LB674 about the impact on small business and what they would have to go through. I have checked into that and those have been resolved. I have no problem whatsoever. I checked with the Nebraska Federation of Independent Businesses and a few others, and actually encouraging businesses to protect those Social Security numbers, so that's been removed. By adding this amendment I do believe this is a much better bill. The amendment Senator Mines brings forward is a voluntary...you have to ask to be on this so your credit is protected, and then you lift your freeze. I think that's a key. In committee there was no major opposition. I do like the fact, too, if Senator Mines would yield to one question? [LB674]

SENATOR FRIEND: Senator Mines, would you yield to a question? [LB674]

SENATOR MINES: I will, Mr. President. [LB674]

SENATOR GAY: Senator Mines, we discussed protecting a minor's...if you are the parent or a guardian and you have a minor, that we can also protect the minor's interest, as well, in this letter that you write to the credit reporting agencies. Is that correct? [LB674]

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SENATOR MINES: That is correct. If you recall, during the hearing we had an individual testify about that, about minor's credit is also important, and you took the lead in committee, and I think that's a real important part of this amendment is that minor children can also have their credit protected for the future. [LB674]

SENATOR GAY: Thanks for the recognition on that. I wasn't seeking that but I appreciate it. The one thing also on this is we get so many of these applications in the mail for credit and they actually send you the checks and just...you've got to be so protective nowadays of your credit and all that requires. But this would also help, I believe, to remove that tier of, boy, I hope I'm shredding these enough or I hope no one got into my mail box, whatever the case may be. But I think by having this in place, that's an added protection that's kind of like the do-not-call list for credit, I think, is the way I'm looking at it, but I think that's very important. And as Senator Lathrop mentioned on LB674 in a related measure, I think businesses are doing that now. We're seeing more and more individuals who would like to protect their credit and take that initiative, and that's what this does. Only if they take the initiative, they get on this list, and I think it's very good. So if they want to remove it, as Senator Mines had mentioned, they call in. It was...one more question, Senator Mines, if you would yield to a question? [LB674]

SENATOR FRIEND: Sorry, Senator Mines. Will you yield? [LB674]

SENATOR MINES: Thank you, Senator. [LB674]

SENATOR GAY: Senator, the question is on the 2009 provision. Was that in the original bill or was that in other discussions that by...did you say 2009 that the credit reporting agencies have to have a method in place where you could go online? Is that...? [LB674]

SENATOR MINES: Right. That will give the credit bureaus time to put their procedures together, and it matches much of the other legislation that's been passed in other states so that it all kind of comes together for these credit bureaus. [LB674]

SENATOR GAY: So they will probably be doing this anyway? This is not... [LB674]

SENATOR MINES: Absolutely. [LB674]

SENATOR GAY: Okay. Was that...I don't remember that being in the initial bill. Was that part of the compromise that you had been working on, or was that...? [LB674]

SENATOR MINES: I think...yes, after Experian testified at the committee hearing, we sat with them and talked, and they said they are on a time frame and they needed some time to put these procedures together. And since other states are following along, it made great sense for us to do the same. [LB674]

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SENATOR GAY: Okay. Well, I commend you for doing that because I know there was a little bit of resistance there, but even the credit reporting agencies, I thought, were very good in committee and very accommodating to make this happen for their own interests, as well. [LB674]

SENATOR FRIEND: One minute. [LB674]

SENATOR GAY: So I do rise in support and would urge you to support the amendment and the bill. Thank you, Mr. President. [LB674]

SENATOR FRIEND: Thank you, Senator Gay and Senator Mines. Senator Mines, there are no other senators wishing to speak. You are recognized to close on AM1045. [LB674]

SENATOR MINES: Thank you, Mr. President and colleagues. The amendment, I think you have a great understanding about what it's going to do. It will allow Nebraskans to put a freeze on their credit, if they so desire, so that businesses or nefarious individuals can't get information about their credit from the three different credit bureaus. It can be thawed in a reasonable amount of time, and I think this helps protect those that choose to protect their good credit and are concerned about it. This is the perfect vehicle for that. So I thank you for your attention and I urge your adoption. Thank you, Mr. President. [LB674]

SENATOR FRIEND: Thank you, Senator Mines. Members of the Legislature, you've heard the closing on AM1045. The question is, shall AM1045 be adopted? All those in favor please signify by voting by aye; all those opposed vote nay. Have you all voted who wish to? Record please, Mr. Clerk. [LB674]

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Mines' amendment. [LB674]

SENATOR FRIEND: The amendment is adopted. [LB674]

CLERK: I have nothing further on the bill, Mr. President. [LB674]

SENATOR FRIEND: Senator McGill, for a motion. [LB674]

SENATOR MCGILL: Mr. President, I move LB674 to E&R for engrossing. [LB674]

SENATOR FRIEND: All those in favor signify by saying aye. All those opposed say nay. It is advanced. General File, Mr. Clerk. [LB674]

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CLERK: Mr. President, the first bill, General File, Senator Chambers, LB471. (Read title.) It was introduced on January 17 of this year, referred to the Government, Military and Veterans Affairs Committee for public hearing. The bill was advanced to General File. I do have committee amendments, Mr. President. (AM412, Legislative Journal page 611.) [LB471]

SENATOR FRIEND: Senator Chambers, you are recognized to open on LB471. [LB471]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, anybody who has ever seen one of these events or read about it will understand why there should be regulation. The activity is not going to be banned. It consists of punching, grappling, wrestling, kicking, and other things that might, to use nice language, allow one combatant to obtain dominance over the other, but you might also say you're trying to inflict as much damage as possible. So what this bill does is to authorize the Athletic Commissioner to establish rules and regulations that will govern this activity. There will be the regular fees and percentages of the gate charged for these events as will occur with boxing, wrestling, and other such athletic events. If there would happen to be television coverage, there would be a 5 percent amount of that, that would go to the commission. I'm going to read for you the definition of this activity since it's the first time it will be defined in statute. It is found on page 10 of the bill. "Mixed martial arts, commonly referred to as MMA, means an unarmed combat sport in which two competitors seek to achieve dominance over each other by utilizing a combination of permitted martial arts techniques from disciplines of martial arts, including, but not limited to, grappling, kicking, and striking. Martial arts means any one of the disciplines set forth in rules and regulations adopted and promulgated by the State Athletic Commissioner." This definition contains some general words because you would not want to try to list all of the activities by name that would be covered by the law because if you gave a listing, somebody could come up with a similar type of activity but it's not listed so it's not covered. So the definition says it includes but is not limited to the types of items listed so that you have an idea of what is entailed here. There is other language which I think ought to be read for the record straight from the bill. It would be on page 6. "Professional mixed martial arts matches or exhibitions shall not exceed three rounds in length, except in a championship match, which shall not exceed five rounds in length. No round shall be longer than five minutes. At least one minute shall intervene between rounds." As with boxing and wrestling, a person would have to have gotten a physical, be certified fit physically, and I guess mentally, to engage in this activity. Why do I say mentally? We had some very interesting testimony at the hearing and we had two very clean-cut young men who came in to testify, and by looking at them, listening to them, you would never believe that there are periods in their life when they take complete leave of their senses and become examples of what Darwin's theory talks about before people became altogether upright, put on clothes, came down from the trees, and when they say each other they said, how are you doing, are things okay with you. But at any

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rate, they were able to account and explain to the committee why there needs to be regulation. Sometimes they will have these events take place in a bar, a tavern. There might be a professionally trained fighter who will come to town, and instead of training with people of equal ability, he will go into one of these bars and they will encourage somebody to get in the ring with him and get his brains beat out. It seems to me that if I were a professionally trained fighter, I would not want to fight against somebody who could not compete with me on roughly the same level. Some of these people experience great injury. Sometimes when one of these events is put on and there is more or less an organized setting, the promoter will get the money and then takes the first thing smoking. So when the participants want their money or if there is anything to go to the state, there is no money because the dish ran away with the spoon. So as we listened to the testimony, everybody in the room, even those who were not appearing on this bill, could see the need to regulate this activity. There is not going to be a banning of it. We should not want to drive it underground, but by regulating it and allow those who are more or less legitimate, and there is no accounting for taste. The people who want to participate in this activity will be licensed, regulated. One of their members will be put on the Athletic Advisory Committee, and by that I meant somebody who had either participated in this activity or is currently participating so that expertise is available if the committee should need that. If the sport is regulated, it can help as far as self-policing by helping to root out, if necessary, those underground contests of this kind. But if the public knows that this is deemed a legitimate activity, that the participants are going to have to meet certain requirements, they are licensed, there will be a bond, there will be a referee, they wouldn't have the occasion to go in somebody's basement or a garage or a tavern and watch what would amount to a slaughter. If you have any questions on any part of it that I have not covered, then I will be willing to take those questions. And I was going to ask if there is anybody in here who had seen a man my age, because we're talking about physical dexterity, stand on a table this high and do a back flip without hands? How many of you have seen a person my age to that? How many of you would like to...it's for this purpose only. How many of you would like to see a person of my age do that? (Laughter) Sometimes we must learn to live with disappointment. Thank you, Mr. President. (Laughter) [LB471]

SENATOR FRIEND: I believe the ayes had it. Thank you, Senator Chambers. Members of the Legislature, you have heard the opening on LB471. There are committee amendments. Senator Aguilar, you are recognized to open on AM412, the committee amendment. [LB471]

SENATOR AGUILAR: Thank you, Mr. President and members. Since mixed martial art matches are already occurring here in Nebraska, the committee amendment adds an emergency clause to the bill to allow the State Athletic Commissioner to begin the regulation of this sport as soon as possible. For the record I'd like to state that there are some matches already scheduled and the regulations will not be in place before they take place, but the Athletic Commissioner has already indicated that it's all right if they

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go ahead and take place, and then sometime in August the regulations should be ready. But I want to get that on the record and just to state that we support the bill and the committee advanced the bill out on a 6-0 vote with two members being absent. I encourage you to support the amendment as well as the underlying legislation. Thank you, Mr. President. [LB471]

SENATOR FRIEND: Thank you, Senator Aguilar. Members of the Legislature, you have now heard the opening on AM412, the Government, Military and Veterans Affairs amendments. There are members wishing to speak. Senator Harms, you are recognized. [LB471]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Chambers, would you yield? [LB471]

SENATOR FRIEND: Senator Chambers, will you yield to a question? [LB471]

SENATOR CHAMBERS: Provided the rules of good sportsmanship are in place, I certainly will. [LB471]

SENATOR HARMS: Well, that sounds good to me; I'm not going to jump off of anything though. [LB471]

SENATOR CHAMBERS: Okay. [LB471]

SENATOR HARMS: Could you tell me how many states have martial arts sanctioned? [LB471]

SENATOR CHAMBERS: I didn't really check that, Senator Harms, but there are states that do have, and they even have, I think, a national-type umbrella organization because these contests occur; they have championship matches; and some of them are televised. But as to the number of states I couldn't tell you. [LB471]

SENATOR HARMS: Have you had an opportunity to look at and review what other states' rules and regulations are, or has somebody else already done that for you? [LB471]

SENATOR CHAMBERS: I saw some of the definitions that they had and I didn't want to use precisely what they had because in giving definitions for this state I wanted them to be tailored so that the election commission (sic) would have enough flexibility to address not only what is going on now, but if some, as I indicated earlier, some clever or sly individual might come in and try to get around the rules by saying, well, we don't grapple, punch, and kick. This is...it includes but is not limited to those things. Some states might have a longer listing or some other approach, but what I'm offering is very

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similar to what does exist. [LB471]

SENATOR HARMS: Senator Chambers, do you know what age group this is starting to attract in Nebraska and throughout the country? [LB471]

SENATOR CHAMBERS: As far as the participants, I'm not sure, but they could be kind of young. They may not go too old because I don't think they would last. But it's probably the kind of...the same type of age group that might be interested in boxing. They would have Golden Gloves where younger fellows do participate. Then they work their way up. But as far as those specifics, I don't know, because it isn't an activity in which I have any interest in watching or participating. [LB471]

SENATOR HARMS: Well, it is a...there is no question in my mind it's a very violent sport and I think we are seeing a number of 18-year-olds starting to get involved. So I applaud you in bringing this forward and I think we need the rules and the regulations. One other question, if you could look on your bill on page 8, lines 2-3...22-23; I'll get it right. You changed the number of persons that's on this Athletic Advisory Committee from five to six persons? [LB471]

SENATOR CHAMBERS: Yes. [LB471]

SENATOR HARMS: I see what the criteria is but why did you choose the sixth and what's the reasoning behind that, please? [LB471]

SENATOR CHAMBERS: These other persons represent the sports that are regulated, so this sixth person would be an active participant or a former participant in these kind of martial arts activities so there would be the knowledge and the expertise on the commission itself. [LB471]

SENATOR HARMS: Well, thank you very much. I think this is a violent sport and quite frankly, if it was my choice, we wouldn't have it. But since it is in the state of Nebraska and we are going to have it, I agree with Senator Chambers. We really do need to have the rules and regulations so that it is a safe sport and we have it controlled. So thank you very much for that introduction. Thank you, Mr. President. [LB471]

SENATOR FRIEND: Thank you, Senator Harms and Senator Chambers. Senator Mines, you are recognized. [LB471]

SENATOR MINES: Thank you, Mr. President, colleagues. Let me also support the bill and the emergency clause. Just as a basis, one of those young men that came to testify at the Government Committee, it was one of my constituents and he had called, he or someone involved with him had called earlier last year and wanted to hold a mixed martial arts event in Sarpy County. Short notice. And frankly we didn't have a lot of the

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procedures in place so that he could adequately serve the participants, as well as the event itself. He couldn't get bonding and he couldn't do a host of things. What we see in Nebraska are promoters from outside Nebraska that come into our state, hold unsanctioned events. They don't have insurance for the participants. They don't have bonds. They don't have proper referees. It's an event; they come in one night, hit, and run. What Senator Chambers' bill does is provide a basis for, I think, a reasonable procedure and something that is fair to everyone, particularly the applicants or the performers. They will have insurance, albeit not very much. There will be bonding to ensure that they do get paid. And there will be a doctor on site, as well as proper inspection. So I support LB471, as well as the E clause. Thank you, Mr. President.
[LB471]

SENATOR FRIEND: Thank you, Senator Mines. Senator Rogert, you are recognized.
[LB471]

SENATOR ROBERT: Thank you, Mr. President. Members of the body, I also rise in support of LB471, and being a member of the committee, as well, we heard some very good testimony from the couple gentlemen that Senator Chambers referenced. And I've been to a couple of these events, so...and I have seen what goes at some of these. I would have to say that one of the sports that comes out of here which is called the Ultimate Fighting Championship, the UFC, has become probably one of the faster growing types of sporting events in the nation. It's taking over boxing in a lot of different ways. And by putting this bill into effect, it does two things for the state of Nebraska that we try to do here every day. It promotes the well-being of those involved in things that go on here, i.e. sporting activities, and it also is a revenue booster. There are a lot of these events going on across the country, selling out arenas daily, and they won't come here because they can't, like Senator Mines says, they can't get their insurance and they can't get their bonding and they're not able to enforce the rules in Nebraska. By putting this into effect, we can start bringing these types of activities to the state, to the city of Lincoln and the city of Omaha most likely, and sell out those arenas that we have built and create some more revenue for the state. As has been said before, this bill will not drive this sport underground but it will drive those portions of this sport that are underground out of the state. We have a lot of unscrupulous promoters that are coming through the state doing these types of things, and the good guys, per se, are getting the bad rap for what is going on. So if we can get this put into effect right away with the E clause, it will benefit everybody. Senator Harms, you asked a couple questions about those types of groups that are attracted and who are taking part in it. It's a lot of people starting in their teens and they go into their late 30s and early 40s, as long as they can hang in there. The violence isn't horribly bad. It's not a lot more than boxing or karate or other mixed martial arts or physical contact sports, but there is some, but these regulations will make sure that they're done correctly and they're monitored and we'll have the medical staff on site when we do these types of events. So I encourage everybody's support on this bill and I thank Senator Chambers and the Speaker for

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putting it on the floor. Thank you. [LB471]

SENATOR FRIEND: Thank you, Senator Rogert. Members, we are discussing the Government, Military and Veterans Affairs amendment to LB471. Senator Avery, you are next and you are recognized. [LB471]

SENATOR AVERY: Thank you, Mr. President. I am on the committee, as well, that heard this bill, and I was impressed with the testimony, as was Senator Chambers and Senator Rogert. I did not vote to advance the bill, not because I don't support it but because I was absent. I don't remember why. But my legislative aide, if any of you have seen him, you know he is not a small fellow. He stands about 6'5" and I think he weighs close to 300 pounds. He is familiar with this sport. And I talked with him at some length about it because I was curious, since I had not witnessed one of these combats myself. And I use the word combat because that's what it is. It's a combat sport. It started way back in the 1920s in Brazil. And just out of curiosity, I thought I would look up some of the terms used to describe the kind of fighting, and this will illustrate the reason why we need to support regulation as proposed by Senator Chambers. One of the strategies is sprawl-and-brawl. Another one is clinch fighting. Ground-and-pound; that one sounds particularly harmful. Submission wrestling. Lay-and-pray. I think that's my strategy. (Laugh) You can win by knock out, by technical knock out. You can win because the referee determines that you cannot continue, and stops it. You can also win because the doctor determines that you cannot intelligently continue to defend yourself, and the doctor will intervene. Also your corner people can intervene by throwing in the towel. But listen to some of the common fouls. No head butting, eye gouging, hair pulling, biting, fish hooking. What's that? Maybe Senator Chambers may know what fish hooking is; I don't. I know what a fish hook is but in this context I'm afraid I don't know what it means. No attacking the groin or the trachea or striking the back of the head, the spinal area, as in a rabbit punch. No striking of the kidneys. No small joint manipulation. I think that's fingers. And actually you can't control more than three fingers or toes at one time. No intentionally exiting; you can't run. I think you have to stay in there and fight. No throwing your partner or your opponent out of the ring. No purposely holding the ring ropes or fence. That must be the rope-a-dope strategy doesn't work. No spitting on the opponent. No timidity. You cannot be timid in this sport. In some competitions, fighters can be penalized for lack of aggression. No cursing inside the ring, either at the opponent or the official. These are plenty of reasons, in my opinion, why we should support this bill, and I will. Thank you. [LB471]

SENATOR FRIEND: Thank you, Senator Avery. Senator Nelson, you are recognized. [LB471]

SENATOR NELSON: Thank you, Mr. Speaker and members of the body. In light of what Senator Avery just outlined, I'm more and more in favor of banning the sport, just as Senator Harms is. But I guess if it's not really in our best interest to ban it, we have to

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live with regulations like this. I do have a question for Senator Chambers if he would yield. [LB471]

SENATOR FRIEND: Senator Chambers, will you yield to a question? [LB471]

SENATOR CHAMBERS: Yes, I will. [LB471]

SENATOR NELSON: Senator Chambers, on page 7, I think it's Section 8, lines 12, 13, 14, it talks about participants not giving an honest exhibition of his or her skill, and then they would not be paid. Could you explain a little bit about how that would come about or why that's in there? [LB471]

SENATOR CHAMBERS: Would you tell me the lines again? [LB471]

SENATOR NELSON: Oh, I'm sorry. [LB471]

SENATOR CHAMBERS: I'm on page 7, is it? [LB471]

SENATOR NELSON: Page 7. It would be lines 11, 12, 13, 14. [LB471]

SENATOR CHAMBERS: Oh, that's fixing or throwing a match. [LB471]

SENATOR NELSON: I see. Okay. [LB471]

SENATOR CHAMBERS: Because people bet on these like they do on boxing, so if you go into the tank then this language is referring to that. [LB471]

SENATOR NELSON: I see all sorts of licensing in here and I scanned the bill a couple of times, but are there any requirements as far as the participants themselves to show any expertise or experience in martial arts before they come into the ring, or is that just kind of determined by the referee? [LB471]

SENATOR CHAMBERS: Well, it would be like boxing. Anybody who wants to box and there is nothing you've done against the law that would prevent you from boxing, you will be allowed to box. And if the fight is too one-sided, that's where the referee would stop in and just end it, or as Senator Avery pointed out, if you are getting too cut up, the doctor can stop it. But there is not going to be a test as to how good you are but you would have to have that physical to show that you are in good enough shape to participate. And remember, the language that is not underlined relates to boxing, wrestling, and other activities, so the only thing that we're really doing is putting martial arts under the same regulatory umbrella as these existing activities that are regulated. So the fees, the bonds, the tax, that is already in law and those things would just be now applied to martial arts also. [LB471]

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SENATOR NELSON: Okay. So an amateur coming in for the first time in one of these contests would just have to rely on his knowledge of what the general rules are and maybe some prior encounters with other persons prior to that. [LB471]

SENATOR CHAMBERS: Now, I can't say for sure on this mixed martial arts, but if you're an amateur you're not going to fight against a professional. [LB471]

SENATOR NELSON: I understand that, but there would be amateurs against amateurs, I would imagine, so... [LB471]

SENATOR CHAMBERS: But you may when you make that step up. [LB471]

SENATOR NELSON: Yeah, somebody has got...well, somebody has got to make a start as an amateur even, and I'm saying I guess you just have to be aware of what the rules are and take it from there if you're going to prevail or protect yourself. [LB471]

SENATOR CHAMBERS: I think if a person is serious, he would have a manager or somebody who might be advising him, maybe a former fighter, or maybe somebody who trains them. But I doubt that a person would just come off the street, under these regulatory provisions, and be allowed to get into the ring. [LB471]

SENATOR NELSON: That's probably what is happening in some of the bars and things; somebody has too much to drink. [LB471]

SENATOR CHAMBERS: Oh, yes. Some of them don't just come off the street. They get up off the floor or something else because John Barleycorn put them on the floor the first time. Then John L. Sullivan puts them on the floor the second time when they get in the ring. [LB471]

SENATOR NELSON: All right. Well, thank you very much, Senator Chambers. I think this is well-written and covers things and I certainly would support the bill. Mr. President. [LB471]

SENATOR FRIEND: Thank you, Senator Nelson and Senator Chambers. Senator Chambers, you are next and you are recognized. [LB471]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, this sure was a strong temptation to make a play on Senator Nelson's name: you know, full nelson, half nelson. But that's in wrestling. We did get some information on the number of states that regulate. It's either 38 or 39. And under the existing law, the age, the bottom age, is 16. So Senator Harms had asked those questions, and it's good to get that kind of information into the record. I did do a little research and the two people who

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were absent when this bill was being voted on were Senator Adams and Senator Avery, and if you notice they are both matched up pretty well, age, height, former life. They were actually participating in a master's exhibition of mixed martial arts. (Laughter) And that's about all I wanted to say so that we have everything on the record. Thank you, Mr. President. [LB471]

SENATOR FRIEND: (Laugh) Thank you, Senator Chambers. Thank you, Senator Chambers. Senator Carlson, you are recognized. [LB471]

SENATOR CARLSON: Mr. President and members of the Legislature, I am not real excited about this event but I think it's a good idea if it's going to happen, that it needs to be regulated. I do have a question or two for Senator Chambers if he would yield. [LB471]

SENATOR FRIEND: Senator Chambers, will you yield to a couple questions? [LB471]

SENATOR CHAMBERS: Yes, I will. [LB471]

SENATOR CARLSON: Senator Chambers, have you read your bill? [LB471]

SENATOR CHAMBERS: Yes, I have. [LB471]

SENATOR CARLSON: Okay. (Laughter) I didn't have any reason to ask you other than that's what you ask, so I thought I would. [LB471]

SENATOR CHAMBERS: I understand. [LB471]

SENATOR CARLSON: Now, one of the things, you used the term unsanctioned, and I understand what unsanctioned is. And I understand that if participants take part in an unsanctioned event, they can be refused from participating in sanctioned events. But what happens when somebody conducts the unsanctioned event? How are they penalized? Or you would hope they would be run out of business but I don't see anything that really addresses that. [LB471]

SENATOR CHAMBERS: Well, Senator Carlson, the commission is going to establish rules and regulations, and they will cover all of those things. Right now, there is nothing in the law that will cover what it is that you're asking unless there might be some general provisions along that line. But a sanctioned event would be one approved by the commission based on its compliance with the rules and regulations. But since we have no rules and regulations right now for mixed martial arts, there is no sanctioning or approval at this point. We were told that some time in August they may have their rules and regulations in place, and at that time I think it will deal not only with the participant who is not properly sanctioned, but a promoter or anybody else who would do

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something in violation of the rules and regulations. [LB471]

SENATOR CARLSON: Okay. Thank you, Senator Chambers. I'll listen to the rest of this debate. Last Wednesday on LB701 you submitted four amendments, and I believe we had a legislative record vote that day. Chambers, Fischer, and Erdman all agreed on four votes in a row. So it will be interesting to see how this goes today. Thank you. [LB471 LB701]

SENATOR CHAMBERS: (Laugh) Okay. [LB471]

SENATOR FRIEND: Thank you, Senator Carlson and Senator Chambers. Senator Pirsch, you are recognized. [LB471]

SENATOR PIRSCH: Thank you, Mr. President and colleagues. I rise in support of both the amendment and the underlying bill. I think it makes sense with regard to this specific activity commonly referred to oftentimes as ultimate fighting. There are various levels of professionalism among promoters in the industry and ethics, and so I think it is a necessary step that we take here today. I think it's important. There was a Journal Star article, it came out April 10 of this year, that kind of illustrates the popularity. And not always do we have a firm grasp here as a body of the popularity. Here this sport, there was...and this just kind of illustrates it in this article. A mixed martial arts bout on a cable TV program between two combatants last year attracted more viewers in the 18 to 24 demographic than the World Series did. So there is an incredible demand to watch this type of activity. And where there is such a demand, there is an incentive, a monetary incentive, for promoters of all types. And so I think it is important to make sure that this activity which has the potential for such grave danger is regulated. I'll yield to Senator Chambers the balance of my time if he would like to take it. [LB471]

SENATOR FRIEND: Senator Chambers, you have 3 minutes and 25 seconds. [LB471]

SENATOR CHAMBERS: I'll be very brief. Thank you, Senator Pirsch. Thank you, Mr. President. Some people might have conjured up the idea of the old days when they had the gladiators. And supposedly when one had the other under control, if that one was to live it would be thumbs up, if he was to die, it would be thumbs down. But in reading the description of the way a person's hands would be manipulated to show that the person would die, it would indicate that people have these two positions opposite. It said the thumbs would be upward and outward, which I guess would be something along this line. But the thumbs were up when the person would die. If they were down, the person would live. So things have a way of taking on a meaning opposite from what it originally was. I cannot say that the person who wrote the description that I saw was actually there, but it was somebody who studied ancient societies, cultures, and athletic events. If I had my way, which I don't have in a lot of respects, this is not an activity that I would encourage. It is not one that I think the state should seem to give approval to. But in the

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real world and being practical politicians, we have to recognize the difference between what can be achieved and what cannot. To enact laws that cannot be enforced, to put bans in place that cannot be carried out as was the attempt during Prohibition, can bring about a kind of disrespect for the law, a looking of the other way by law enforcement persons. And society by its general action will suggest that a bad law had been enacted. Nobody is going to comply with it. There are already what I would blood sports, and boxing is one of them. There have been men killed in the ring. There is a postage stamp with the picture of Sugar Ray Robinson on it, and he probably, as they say, pound-for-pound,... [LB471]

SENATOR FRIEND: One minute. [LB471]

SENATOR CHAMBERS: ...was the best fighter who ever was in the ring. He killed a man named Jimmy Doyle, and after the fight they asked him, why didn't you stop when you saw he was in trouble? Robinson said, it's my job to put him in trouble. He said, well, when he was hurt why didn't you stop? He said, it's my job to hurt him and it's the referee's job to stop it. So all we can hope is that when these kind of activities do occur, you will have somebody as a referee or a ringside doctor or individuals in the combatant's corner who will take action to avoid somebody being seriously hurt, if not killed. Thank you, Mr. President. [LB471]

SENATOR FRIEND: Thank you, Senator Chambers. Senator Engel, you are next and you are recognized. [LB471]

SENATOR ENGEL: Mr. President and members of the body, I do support the amendment and the bill. I think it's very timely that we do something like this. I have a brother who has taught young people how to box behind his barbershop for many, many years, for free. He has also sponsored boxing matches and he has refereed for many, many years and he's always had a doctor at ringside, and he's never had one seriously injured in any fights that he has ever refereed. But he also agrees that this particular sport we're trying to regulate is a very, very dangerous sport, primarily because it is not regulated. People are not trained for it. And so many times, like I think Senator Chambers and others have said, they pick somebody up out of a bar or someone who really doesn't have everything together, but they're macho and they talk him into it, and say, well, you can go up here and make a name for yourself and you can be somebody. And they go in there and they get the dickens beat out of them and the only one that makes anything off of that is the promoter itself. I tried boxing one time when I was very young, and I got the living bejesus kicked out of me, and I thought, well, I'll make my living from talking instead of in fighting, and probably best I did. But I would like to see Senator Chambers do that back flip from, oh, say, from about 12, 15 feet up and see if he is like a cat and can land on his feet. Thank you. [LB471]

SENATOR FRIEND: Thank you, Senator Engel. Senator Louden, you are recognized.

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[LB471]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I would like to ask Senator Chambers a question if he would yield, please. [LB471]

SENATOR FRIEND: Senator Chambers, will you yield to a question? [LB471]

SENATOR CHAMBERS: Yes, I will. [LB471]

SENATOR LOUDEN: Senator Chambers, I've looked this bill over and it's not that long and read it and that sort of thing. Where in here does it explain what martial arts are? I mean, what are martial arts and is there an explanation anywhere in that bill of what that entails, because my understanding of martial arts, it can be all the way to using wooden clubs to sticks on ends of chains and everything else, and I was wondering if that is what you're trying to have a handle on or if this is just hand-to-hand combat? [LB471]

SENATOR CHAMBERS: Well, Senator Louden, that's a very good question. Martial arts, as such, would not be regulated by this bill. This bill relates to what is called mixed martial arts, and a definition of that is found on page 10 in lines 2 through 10, and I had read that into the record but the types of things mentioned specifically are grappling, kicking, and striking. When the rules and regulations are drafted there will be some specific areas of the body which will be off limits, as would be the case in martial arts events and in other states where they have regulations of this kind of activity. But all of them are not specified in the statute because the rules and regulations will cover that. But I may as well read it into the record again because others may not have gotten that when I first started. Mixed martial arts...oh, go ahead. [LB471]

SENATOR LOUDEN: Just a minute. Well then...in other words, Section 11 you feel clarifies that enough to take care of explaining exactly what mixed martial arts would be. Mixed martial arts doesn't have anything to do with male and female fighting? [LB471]

SENATOR CHAMBERS: No. And what we try to do when we authorize an agency to draft rules and regulations is to give them some legislative direction so they know which way we want them to go, then they fill it in with their rules and regulations. [LB471]

SENATOR LOUDEN: Well, thank you, Senator Chambers. And that was my concern, to know that if this is clearly stated in here, what we're talking about, because if we're giving, you might say, authority for some of these people to work each over with sticks and clubs, that isn't what I intended to support. Thank you, Mr. President. [LB471]

SENATOR FRIEND: Thank you, Senator Louden and Senator Chambers. Senator Fulton, you are recognized. [LB471]

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SENATOR FULTON: Thank you, Mr. President and members of the Legislature. This is an interesting topic to reflect on. There is...I want to share some thoughts. I just want to get this into the record because this is something that we are going to need to keep an eye on for the future. I support the amendment and the bill and I asked Senator Chambers whether he thought it would be appropriate to take this a step further, as I think the only people who might oppose this bill might oppose it because they would like to see this taken a step further to actually ban this sport. And his response resonated with me. It makes sense to me that to ban this sport may actually force it underground such that there is no regulation, and allowing this to proliferate without the watchful eye of society would be a worse thing, and I tend to agree with him and so therefore I'll support the amendment and the bill. Something about this though that struck me a little odd, I don't think that I need to go to any great lengths to persuade anyone that we are experiencing a proliferation of violence in our society and we see it in different ways. That this is called a type of mixed martial arts causes me some concern and let me explain why. My children participate in taekwondo. One of my children really enjoys it. And his instructor in taekwondo is quick to point out and let the children understand that this is a means of self defense. Most martial arts instructors will say that. This is a means for self defense for an individual. It seems to me that this type of fighting, this mixed martial arts fighting that we're going to try to regulate, is promoting the opposite of self defense. This seems to be a promotion of using the martial arts as a means of offending. Or at least it's at the level of being a contest but it seems to me it's promoting the level of offense. There was a movie some time back that I watched called "Bloodsport," and that probably dates me, but it was based on an oriental fighting challenge similar to this called a Kumite or something like that, and it was conducted underground largely because society, the oriental society, didn't...they recognized the martial arts as being a means of self defense and not as a means of offending. So I put that out there just because there is something about this sport that smells fishy to me. The fact that we are regulating it, I think is good, but I suggest that we should keep an eye on this. As the levels of violence in our society proliferate into the future, this is something that we ought to have a control on. It seems to me to take boxing a step further, and it seems to me to be contrary to what martial arts is supposed to be teaching. So I thought it was important to get that into the record. Thank you, Mr. President. [LB471]

SENATOR FRIEND: Thank you, Senator Fulton. Senator Aguilar, there are no other senators wishing to speak on the committee amendments. You are recognized to close on AM412. [LB471]

SENATOR AGUILAR: Thank you, Mr. President. You've heard some questions and answers here on this arena, and I think Senator Chambers had the best explanation when he used the analogy of Sugar Ray Robinson and why we need this bill. And I would point out to Senator Fulton that I'm sure professional boxing at one time started out as a means of self defense, and it has come a long way from there since then. This

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is something we need to do and we can't afford to drive underground. I ask for your support of the amendment as well as the underlying bill. Thank you, Mr. President. [LB471]

SENATOR FRIEND: Thank you, Senator Aguilar. Members of the Legislature, you've heard the closing on AM412, the Government, Military and Veterans Affairs Committee amendments. The question is, shall AM412 be adopted? All those in favor please signify by voting aye; all those opposed vote nay. Have you all voted who wish to? Record please, Mr. Clerk. [LB471]

CLERK: 36 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB471]

SENATOR FRIEND: The amendments are adopted. Senator Chambers, there are no senators wishing to speak. You are recognized to close on LB471. [LB471]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, although there were some lighthearted comments, we all know this is a very serious matter, and regulation is better than ignoring it or trying to ban it. In the lighthearted vein that Senator Loudon started, but also there is a serious undercurrent, this will not allow men to be battling women in the ring in this activity. Harry Belafonte had a song which I'm not going to sing. He said, they say let us put man and woman together to find out which one is smarter; some say man but I say no; the woman has the man beat; they should know. Not me but the people they say that the man has always led woman astray, but I say please listen when I say she's smarter than man in every way. Now, if I sang it I would have probably gotten applause after I got through, for stopping. But in this particular case that we're talking about here, we have to understand that there's so much in this society now that almost desensitizes everybody to violence, from video games to the ongoing wars, to the evening news where there are assaults, there are shootings. Violence is glamorized. Violence is glorified. So if there are young men who are of an aggressive turn of mind, it would be better to let that aggression be channeled. As Senator Fulton correctly point out, the martial arts are designed to defend oneself, not to make one aggressive or the initiator of a combat. If anything, the snake, the serpent, could symbolize what martial arts are about. If you give a snake a way to escape, it will do it. If you corner it and will not allow it to escape, then it will defend itself in the way that it's equipped to do. There is an activity known as jujitsu, and that's where you can put pressure against joints. You can do very painful maneuvers on a person. Judo, on the other hand, is known as the gentle way. You throw a person. You use that person's momentum against himself or herself. And if you have a 200-pound expert in judo against a 100-pound expert in judo, the 200-pounder is going to win every time. This is why when they have these contests, they will have weight categories because equally trained and proficient individuals are going to contest against people of similar size and weight. I'm hoping that this activity might lead to some people participating who

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think they know what they're doing, but they will make that first plunge in a setting where they're not going to be crippled, they're not going to be killed, and if it's clear that they ought not be in that ring, somebody will be there with the authority and the responsibility to call it to an end. I was notified that a person's 16-year-old nephew is going to be in one of these contests not too many days hence. There is, right now, no regulation. This bill, once it takes effect and the commission does its work of drafting rules and regulations, we can hope that somebody as young as 16 who would be allowed to participate, will be restricted to a category.... [LB471]

SENATOR SCHIMEK PRESIDING [LB471]

SENATOR SCHIMEK: One minute. [LB471]

SENATOR CHAMBERS: ...of participants who are not so far and above this person in ability and size that you can count on somebody being injured. Madam President, that's all I have to offer on the bill and I will accept a machine vote. Thank you. []

SENATOR SCHIMEK: Thank you, Senator Chambers. You have heard the closing on LB471 for advancement to E&R Initial. All those in favor vote aye; all opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB471]

CLERK: 38 ayes, 0 nays, on the advancement of LB471. [LB471]

SENATOR SCHIMEK: Thank you. Next item on the agenda. [LB471]

CLERK: LB404 by Senator Janssen. (Read title.) It was introduced on January 16, referred to General Affairs, advanced to General File. I do have committee amendments, Madam President. (AM367, Legislative Journal page 595.) [LB404]

SENATOR SCHIMEK: Thank you, Mr. Clerk. Senator Janssen, you are recognized to open on LB404. [LB404]

SENATOR JANSSEN: Thank you, Madam Chairman, members of the Legislature. This particular bill, LB404, was originally introduced to allow the maximum salary for members of the Nebraska Liquor Control Commission to increase from \$12,500 a year to \$25,000 a year. If adopted, the committee amendments would change this maximum salary to \$16,000 a year. Currently, the Governor sets the salary at an amount not to exceed \$12,500. If the committee amendment is adopted, LB404 would give the Governor the authority to set the salary at an amount up to \$16,000. The salary would only be increased if the Governor set it at a higher amount. The salary was raised the last time in 1973 when it was increased from \$10,500 to \$12,500. And as you all know, based on inflation, \$12,500 in 1973 would be equal to over \$56,000 in today's dollars or in the buying power. It's been 34 years since it was last increased, which is longer than

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the last salary increase of ourselves here in the Legislature. LB404 is a step in the right direction and I would ask for your support of this legislation which I think is probably long overdue. Thank you. [LB404]

SENATOR SCHIMEK: Thank you, Senator Janssen. As the Clerk stated, there are committee amendments. Senator McDonald, as Chair of the General Affairs Committee, would you like to open on the committee amendments? [LB404]

SENATOR McDONALD: Thank you, Madam President and members. The committee amendment simply changes the salary cap proposed in the original bill to \$16,000. The committee recognized the fact that the Liquor Control Commissioners have not had their salaries adjusted for more than 30 years. As Senator Janssen has told you, the salary has remained the same since 1973. To provide a boost and still keep the amount at a reasonable level, a committee member suggested the \$16,000 amount. There was no particular reason for choosing this number but there was a consensus among committee members that this was a fair compromise. I would appreciate your support for the amendment and then for the bill. But let me say that it doesn't automatically move to \$16,000. The Governor still has to make that choice of where he wants to put it and it can be anywhere up to \$16,000. Thank you. [LB404]

SENATOR SCHIMEK: Thank you, Senator McDonald. You've heard the opening on the committee amendments. The next speaker would be Senator Erdman. You are recognized to speak. [LB404]

SENATOR ERDMAN: Madam President and members of the Legislature, we have a new definition of consensus. I was not in favor of the committee amendment, I don't believe, and I'm definitely not in favor of LB404. I think it's unnecessary. The analysis that was done during the committee's deliberation of LB404 would show that the time that is invested, and I will admit up-front, knowing some of the members who are on the Liquor Control Commission and knowing that some of them come from western Nebraska and devote a great deal of time in serving, I will admit up-front that they do, I believe, as good as can be expected job for the responsibilities that they have. We just passed a bill this session that would increase...or I believe we are going to pass it if we haven't already...a bill that would increase the salaries for the commissioners on the Commission of Industrial Relations. Per hour, under existing law, these individuals make more than those individuals already. So it's a matter of understanding. Senator Janssen will make the point that it's been since '73 that they've had a pay raise. They're not going to get one with this bill because the Governor is not going to appropriate additional funding. So I wonder out loud whether or not this is necessary, but I believe that at some point we have to have a common understanding. I'm not opposed to giving those individuals serving the state in official capacities pay raises, not hardly. But I do believe that there has to be some logic in these areas and where we set those salaries. If one salary per day, per hour, is good enough for the members who serve on CIR,

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what's the standard here? And I would imagine Senator Janssen would say that it's to the argument of each one of these different entities to make that point. Point well taken? I'm a member of the Legislature trying to make sense of all these commissions and members that may get a salary. I think there needs to be some logic here. I recognize wholly that even with the committee amendment nothing will change in their salaries because it's my understanding the Governor is not going to increase their salaries. But I wanted to share that perspective with the body, that there has to be some logic. It's just lost on me at this point that this actually rises to that level and making sure that we're holding a similar standard for different commissions. I may be one vote but it will be red. Thank you, Madam President. [LB404]

SENATOR SCHIMEK: Thank you, Senator Erdman. Senator Stuthman, you are the next in line to speak. [LB404]

SENATOR STUTHMAN: Thank you, Madam President and members of the body. I have a real concern with the total amount of dollars that these commissioners are getting. Yes, it's been, as Senator Janssen stated, 1973 when they received \$10,500 before that and raised it to \$12,500. That was probably a real gift at that time, in my opinion, for those people that serve on that commission. These people also get their expenses paid. And the way I understand it, they meet twice a month...once a month for two days--that's 24 days out of the year. I was not aware that the Governor is possibly not going to increase this amount. But whenever you allow it to go up to a certain point, most generally it does get to that point, you know, either immediately or shortly thereafter. I have...I just...I can't support the increase. I think the \$12,500 is a good rate for those people that serve on that commission and I think that's where I'm going to be. And as Senator Erdman had stated, he may be the only red one, but I will tell you he won't be the only red one. Thank you. [LB404]

SENATOR SCHIMEK: Thank you, Senator Stuthman. Senator Carlson, you are recognized to speak. [LB404]

SENATOR CARLSON: Madam President and members of the Legislature, I have some concerns about LB404. If Senator Janssen would yield to a question, I'd like to ask him. [LB404]

SENATOR SCHIMEK: Senator Janssen, would you yield to a question? [LB404]

SENATOR JANSSEN: I would be happy to. [LB404]

SENATOR CARLSON: Now, maybe in the discussion here I could have missed this, but certainly one of the reasons given was that it had been a long time since an adjustment was made. What other reasons are there for the increase, Senator? [LB404]

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SENATOR JANSSEN: Well, what \$12,500 did in 1973, you realize what the purchasing power of that was at that time. And right now what could you buy with that. You know, what has...what's the rest of the economy in this state done? In my opinion, we do have some pretty good people on that commission right now. A lot of people don't agree with their opinions from time to time, but that's a pretty high profile place to be. You're dealing with people's livelihood in a lot of cases. And I know all three of them quite well. I think they're doing a fine job. And if you're not willing to give this modest increase, what kind of people are you going to get the next time around? These people do a great job. And I...you know, we sometimes sit and look at our salaries. You know, sure, we know what it is when we took the job. And the public has seen to that we never have gotten an increase for a long time now. And I think that with the makeup of this body right now, we have probably some of the brightest people, taking myself out, but in this body that we've had in years especially you folks, this new class. I just...I think it's a shame that the state won't give the Legislature a raise. Getting back to the Liquor Commission, you could say the same thing about them. Where are you going to draw next? Who are you going to get? And those are tough decisions that they make. They absolutely are. They are dealing with people's livelihoods and it sometimes doesn't make much difference where they come down; they are scrutinized for it. So I'm sorry I'm taking all your time but I'll stop there. [LB404]

SENATOR CARLSON: Okay. All right, thank you. Well, looking at the summary of the bill, it indicates in there that they meet monthly, usually for two days, which probably means not all the time. But if we assume they did, and that's 24 days a year, and then I looked at that in comparison to what we do, and we meet 90 days one year and 60 the next. That's 150. So that's 75 a year average. This increase that's being asked for takes their daily rate, based on 24 days, to \$666. Our current rate for ourselves is \$160. And if we put that up on the same scale as what is being requested here, our salary would go from \$12,000 to \$50,000. So there is quite a difference. And I believe that we have competent people in this Legislature and I would hope that there's competent people serving on that commission. So that's just to put it into a comparative perspective and I couldn't help but doing that. Thank you, Madam President. [LB404]

SENATOR SCHIMEK: Thank you, Senators Carlson and Janssen. Senator Janssen, your light is next. [LB404]

SENATOR JANSSEN: Thank you, Senator Schimek. You know, one really should not compare what we do with anyone else's wages. If you were going to do that, you know, what should our salary be? You know, we are probably compensated at a lower cost or cost to the state than any of the branches of government--any of them. You know, the hourly wage that we...Senator Carlson, what we do, and you're going to find that out, the longer you're in the Legislature, you get more involved and your summers or your interim is not yours. It belongs to your constituents. And you're going to be on the run. You thought it was rough on the campaign trail. Just wait. So...and the Liquor

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Commission, this commission, is not a very high profile area but the Governor, as a rule in the past, the past several Governors, have picked some very fine people, for the exception of one and I won't get into that. But anyway, there was...I think they are...one is an attorney. Or two, there are two attorneys: one from Omaha and one from Scottsbluff, I believe it is. And then a man from Lincoln here who had been in that type of business for several years; ran the Legion Club here for a long, long time. So they have knowledge of the law and knowledge of the business that they are controlling. And they do make some tough decisions. It is not easy to tell someone you're going to be out of business. I want you to think about that. It's a modest increase with the committee amendments. And I believe it's long overdue. I'll take whatever the decision the body offers but I do think it's the right thing to be doing right now. Thank you. [LB404]

SENATOR SCHIMEK: Thank you, Senator Janssen. Senator Fulton, you are recognized to speak. [LB404]

SENATOR FULTON: Thank you, Madam President. Would Senator Janssen yield to a question, please? [LB404]

SENATOR SCHIMEK: Senator Janssen, would you yield? [LB404]

SENATOR JANSSEN: Yes. [LB404]

SENATOR FULTON: Senator, when I was reading through the fiscal note, there is something that I have a question on and hopefully you could clarify. There is an indication that part of the fiscal note is representative of benefits that are paid. Are there benefits associated with these commissioner positions? [LB404]

SENATOR JANSSEN: Oh, let me see. Where are you looking at here? On the A bill? [LB404]

SENATOR FULTON: Well, actually on the fiscal note. [LB404]

SENATOR JANSSEN: Hang on just a minute here. [LB404]

SENATOR FULTON: It was the fiscal note attached to the bill itself. [LB404]

SENATOR JANSSEN: All right. We'll carry on a little conversation here and we'll get those benefits...and answer for that from legal counsel for the committee. But this fiscal note is at the \$24,000 rate. [LB404]

SENATOR FULTON: Okay. [LB404]

SENATOR JANSSEN: Actually the fiscal note right with this would be about \$12,000

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with the amendment. [LB404]

SENATOR FULTON: Yeah. The fiscal note itself doesn't seem exorbitant to me, but that is something that I just...I would like to get some clarification on if indeed there are benefits attached. There is a delineation of...oh, I'm reading it from here. It looks like the cost for three commissioners or three individuals for whom the pay would increase. But then there is also a line about benefits and that's something that is unbeknownst to me. That's something that I'm unaware of. [LB404]

SENATOR JANSSEN: All right. We will find that out for you. They don't know exactly what that \$5,900 on benefits are. As soon as...I'll push my light one again as soon as I get that answer for you. [LB404]

SENATOR FULTON: Okay. Good enough. Thank you, Senator Janssen. That's...I wonder if Senator Erdman would yield to a question also. [LB404]

SENATOR SCHIMEK: Senator Erdman, would you yield to a question? [LB404]

SENATOR ERDMAN: I would, Madam President. [LB404]

SENATOR FULTON: Senator, this...your point, if I...I just want to clarify that I understand what your point was. This is to increase the maximum potential to be paid, and then it would be contingent upon whom to actually pay an increased salary? [LB404]

SENATOR ERDMAN: It would be contingent upon the Governor, Senator Fulton, unless the A bill passes and then it would be my understanding that they would be authorized to receive that salary because we are specifically allocating funding for the purposes of carrying out this bill, and I'm not exactly sure how the Governor could reallocate those funds. Maybe they could. If I were the Governor I would probably just veto the A bill and let the bill become law and leave it at their discretion. But they would have that discretion, but as with Senator McGill's bill earlier today, it's my understanding that if we're funding the bill at that level that logically it would be assumed that they would receive that level of salary. [LB404]

SENATOR FULTON: Okay. And the main reason for your opposition is that this bill doesn't necessarily accomplish what its goal is. [LB404]

SENATOR ERDMAN: My main opposition to this bill is that if we're going to use a standard to determine what individuals who are volunteering or potentially being compensated for their service to the state are paid, then we need to have a common understanding. If the argument was made that we can't get individuals to serve--and I'll turn my light on, Senator, if you need more time--if we can't get individuals to serve on

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the Commission for Industrial Relations and they're making, now, \$475 a day, these individuals under current law are making over \$500 a day. If we're not even at this level for CIR and that's a standard that's acceptable to this body to find qualified individuals and those individuals do more work than these individuals as far as the day-to-day operation, then why isn't this sufficient? That's the burden that I don't believe has been reached. I'm not saying they're not entitled to it. I'm just saying as a member of the General Affairs Committee, they haven't reached that burden with me. I don't believe I've heard anything here today that's new. [LB404]

SENATOR SCHIMEK: One minute. [LB404]

SENATOR ERDMAN: That's my concern. Not that they don't deserve a pay raise but there is no justification based on other decisions of this Legislature to set that standard at a reasonable rate. [LB404]

SENATOR FULTON: Okay, fair enough. Thank you, Senator Erdman. Thank you, Madam President. [LB404]

SENATOR SCHIMEK: Thank you, Senators Fulton and Erdman. The Chair would recognize Senator Wightman. [LB404]

SENATOR WIGHTMAN: Thank you, Madam President and members of the Legislature. I rise also for the same purpose probably that Senator Fulton did. I am very concerned, and I don't know, and I think Senator Janssen may eventually be able to answer this, but I'm very concerned over the fact or the question as to whether or not the members of the Liquor Control Commission receive health insurance at the present time. My office has been doing a study on the cost of health insurance, and we're hoping to have an interim study committee appointed to just discuss that issue as to what it's doing in state government. And I'm here to tell you that if they're getting \$12,500 salary and they are covered by health insurance, and if they're getting family coverage which I don't know that they are, but if they are then they are getting double the amount that...it's costing the state double the amount. As members of the Legislature, we get no health insurance. We can take the state's plan but we pay for it in full, and it's a fairly expensive plan I might add. And again maybe on the basis of two days a month, there is no health insurance. But I know there are a lot of county commissioners across this state who work one or two days a month and do get full health insurance benefits. So I'm very interested in hearing the answer to that question because if they are, in fact, under the state's health insurance program, they have been getting raises and have had substantial raises since 1973, I can tell you that, just by what health insurance has done in that period of time. So if you look at the total compensation, in fact they're in the benefits and certainly there is a lot of indication on the fiscal note that they are getting some benefits, then I'm not sure that salary has been static during that period of time. Thank you, Madam President. [LB404]

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SENATOR SCHIMEK: Thank you, Senator Wightman. The Chair would recognize Senator Rogert. [LB404]

SENATOR ROBERT: Thank you, Madam President. Senator Janssen, could I talk with you a second? [LB404]

SENATOR SCHIMEK: Senator Janssen, would you yield to a question? [LB404]

SENATOR JANSSEN: I certainly can, Senator. [LB404]

SENATOR ROBERT: Senator Janssen, how many days a year do we work as legislators? [LB404]

SENATOR JANSSEN: As legislators? I would say we probably work, during the interim, I would say probably 20 days a month. [LB404]

SENATOR ROBERT: Okay. But according to the constitution we're really only here 150 days in two years, right? [LB404]

SENATOR JANSSEN: That's what people perceive. [LB404]

SENATOR ROBERT: So you're also saying that it's possible that these folks on the commission work more than two days a month. [LB404]

SENATOR JANSSEN: Well, I know one of them does, um-hum. [LB404]

SENATOR ROBERT: Can you give me some dialogue on that, what they might do other than two days a month? [LB404]

SENATOR JANSSEN: Yes. They are down to the commission and watching what is happening within the office, especially the ones that live close by. The one out in Scottsbluff, Ms. Flower, that's quite a ways for her to come down so most generally she is, unless they call a special meeting, she most generally comes down just for the hearings that they have every month. [LB404]

SENATOR ROBERT: Okay. Are they involved in maybe some conference calls and some telephone calls and some other background work that would... [LB404]

SENATOR JANSSEN: Oh, I'm sure; um-hum. [LB404]

SENATOR ROBERT: Yeah. Well, I guess the point I'm making is that, yeah, they probably meet two days a month but I'm sure that, as we do, they work more than that.

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You know, we're here more...we're here 90 days but we're obviously going to spend more than 90 days a year working. And you mentioned Ms. Flower, is it, the one from Scottsbluff? [LB404]

SENATOR JANSSEN: Um-hum. [LB404]

SENATOR ROBERT: If she has to come in for a meeting, it's not two days. Senator Harms can tell you, it's an eight-hour drive here and an eight-hour drive back, so that's basically almost four days. So giving these people, in effect, some sort of raise would obviously cover more than two single days a month that they're trying to work. [LB404]

SENATOR JANSSEN: Um-hum. It probably would, yes. And I, Senator Rogert, I do have the question on the retire...the 7 percent retirement, is the benefits under that. Seven percent on their wages are of their retirement and then they have the Social Security also is in that number on the benefits there. [LB404]

SENATOR ROBERT: Okay. Do you need any more time? I'll yield the rest of my time to Senator Janssen if he wants it. [LB404]

SENATOR JANSSEN: All right, thank you. But the question was raised--thank you, Senator Rogert--about what the benefits were, and what I just repeated is where they come from. It's a retirement account and into the state retirement fund, and 7 percent comes off of there for Social Security. With that, thank you, Senator Rogert. Thank you, Madam Chairman. [LB404]

SENATOR SCHIMEK: Thank you, Senators Janssen and Rogert. Senator Janssen, your light is the next. Senator Janssen waives. Senator Erdman, followed by Senator Wightman. Senator Erdman. [LB404]

SENATOR ERDMAN: Madam President and members of the Legislature, for the sake of the discussion, if you'll recall, I never used our salaries as a basis for my opposition to this bill. In fact, I think with the exception of a couple counties in my district, most of the county commissioners make more than I do, as well. I don't begrudge them that. If they can convince the property taxpayers of those counties to pay that, great. My comments are that if we've had a thoughtful deliberation on the bills that are before the Legislature regarding the funding of commissions and the salaries of individuals that are serving on those commissions, and we've done our due diligence and we've arrived at the opinion that those individuals that will serve on the Commission of Industrial Relations can make \$475 a day and that be deemed an appropriate salary to attract the best and brightest individuals to serve, even if you throw in the couple extra days of travel that those of us in western Nebraska have to engage in to get here, you're still exceeding that rate that we're paying the individuals on CIR. That's my analysis. It's not to what we make. All of you should make more than you do. I'm not sure about me yet. But to the

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extent that you believe that this is an appropriate public policy, vote for it. But the objective analysis that we have undergone this session regarding the salaries of commissioners in other areas is that \$475 is sufficient to determine a wage dispute between a school district and their employees, or the state of Nebraska and their employees. But somehow, and it's lost on me, that over \$500 a day isn't sufficient for this commission. Again, I'm not opposed to giving them a salary increase if they need it. If you want to do that, write in here that they're going to get \$16,000 a year, not what this bill says, and don't give the Governor any wiggle room, and pass the A bill to fund it. Then you'll ensure that you're doing what you said you're doing. But I step back. If you want to pay them \$640 a day based on their official days that they're in work, go for it. But then you should probably go back and explain to the folks that serve on the Commission for Industrial Relations why at the same session we only raised theirs to \$475. That's my concern. That was the concern in the committee. We discussed it; the committee chose to advance the bill. So now you can discuss it. I thought I would share that to make sure that the record was clear as to my analysis. Thank you, Madam President. [LB404]

SENATOR SCHIMEK: Thank you, Senator Erdman. Senator Wightman, you are next. [LB404]

SENATOR WIGHTMAN: Thank you, Madam President and members of the body. I know that Senator Janssen talked about what was included in the additional benefits, and I think he said that it included only retirement and Social Security. But I don't think that answers the question and maybe he has since discovered the answer to this, but I don't think it covers the question on health insurance because I think that \$5,700 or \$5,900, whatever it says in the fiscal note, would have included the increases. The health insurance would not go up just because the salary went up because it isn't based upon salary or a percentage of salary. So I would ask if Senator Janssen would yield to a question. [LB404]

SENATOR SCHIMEK: Senator Janssen, would you yield? [LB404]

SENATOR JANSSEN: Yes, I will, Senator Wightman. [LB404]

SENATOR WIGHTMAN: Have you determined yet, Senator Janssen, whether or not health insurance is paid for the Liquor Control Commission members? [LB404]

SENATOR JANSSEN: Yes, it is, but two of those commissioners are...I don't know whether one is 80 yet but the other one is well in his 80s and they are on Medicare so their supplemental insurance wouldn't be that great. If they do take the state's health insurance. Quite possibly they have their own. The only one is younger. Whether she takes the health insurance or has her own I'm not sure. [LB404]

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SENATOR WIGHTMAN: Okay. I have been aware of public employees, including county commissioners, county employees who are more than 65 years of age that stays under the coverage of the employer, and I...it may very well be that they are not under the state's health insurance program but I wouldn't totally rule that out without having information with regard to that, but I think it's still possible that they might be taking that. So I thank you, Senator Janssen, and thank you, Madam President. [LB404]

SENATOR SCHIMEK: Thank you, Senators Wightman and Janssen. Senator Wallman, you are recognized to speak. [LB404]

SENATOR WALLMAN: Thank you, Madam President. And I appreciate Senator Erdman's comment. We put the Court of Industrial Relations, they used to be called judges, we call them commissioners now also, so why should we have the disparity in income between the commissioners' pay scale? And I think we're going down a dangerous road here so I can't support this amendment, and thank you, Madam President. [LB404]

SENATOR SCHIMEK: Thank you, Senator Wallman. Seeing no further lights, Senator McDonald, would you like to close on the committee amendment? [LB404]

SENATOR McDONALD: It's been an interesting discussion here today. When this bill came to us looking at just changing their salaries, that was one thing, but I think the benefit portion of this was really not brought up and we certainly didn't realize that they are state employees and have the benefits that state employees have, and so I think that does put a different light on the subject. I hope you see it in your heart to support this but know that the Governor makes the final choice. Thank you. [LB404]

SENATOR SCHIMEK: Thank you, Senator McDonald. You have heard the closing on the committee amendment to LB404. All in favor for the adoption vote aye; all opposed vote nay. Have you all voted who wish to vote? Senator McDonald, do you wish to be recognized? [LB404]

SENATOR McDONALD: Yes, I would like a call of the house. [LB404]

SENATOR SCHIMEK: There has been a request for a call of the house. All those in favor vote aye; all opposed vote nay. Record, Mr. Clerk. Record, Mr. Clerk. [LB404]

CLERK: 29 ayes, 0 nays, to place the house under call. [LB404]

SENATOR SCHIMEK: The house is under call. Would all members please return to the Chambers and record your presence? The house is under call. Would all unauthorized personnel please leave the floor? The house is under call. Senator Nantkes is here. Senator Kruse, Senator Johnson, Senator Ashford, Senator Aguilar, the house is under

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call. Senator McDonald, how do you wish to proceed? [LB404]

SENATOR McDONALD: Just a board vote. [LB404]

SENATOR SCHIMEK: A board vote. Senator Kruse, would you check in? Senator McDonald, we need to take a roll call vote. [LB404]

SENATOR McDONALD: A roll call, yes, in regular order. [LB404]

SENATOR SCHIMEK: Thank you. [LB404]

SENATOR McDONALD: Thank you. [LB404]

CLERK: (Roll call vote taken, Legislative Journal pages 1254-1255.) 33 ayes, 10 nays, Madam President. [LB404]

SENATOR SCHIMEK: The amendment is adopted. I raise the call. Discussion on the advancement of LB404. Senator Chambers, your light is first. [LB404]

SENATOR CHAMBERS: Madam President and members of the Legislature, this bill is bad policy. There is more than one way to kill a bill. If you've got a horse out there that runs pretty fast but you don't want it to win the race, you put a heavy jockey on that horse. If you want it killed...but maybe you all want this bill. The best thing to do is to leave it an unacceptable condition, then nobody is going to vote for it. There has not been a compelling case made for this bill. I have supported salary increases and I got some salary increases for all the constitutional offices, disregarding whoever may have been occupying the office at the time, because the responsibilities that attach to the office justified compensation in excess of what then was allowed under the law. This is an entirely different set of circumstances. I voted against reducing the amount because if the amount had remained at the original level, the bill had no chance. Maybe people think this is good policy, maybe they think it's a bad policy but it will be less bad if they reduce the amount. Here's what it's like: The knife was in six inches so you pull it out three inches. And what have you done? You've prolonged the agony. I'm not going to kill this bill by the exercise of the thousand cuts. If people think this is a good bill and if people think it will survive the Governor and they think that these people, based on the work that they do and the nature of the work of that commission, which by the way often has taken decisions contrary to the interests of various communities, then they can give them a raise. But this is not like the typical office where things are being done on a day-to-day basis that will affect the day-to-day lives of large numbers of people. What they do can affect the life of people in a community by saturating it with liquor licenses, as happens in the area where I live. My community, Senator Carlson, is cursed by two blights: churches and liquor establishments. And both of them deal in spirits and I can't say which spirit does more damage. Now I've heard of people with one spirit in them

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that incapacitated them if they are in a war and they can't carry out the killing. But that other spirit will take hold of people and they not only will be in war but they'll commit some of the worst atrocities imaginable. So there is no way that the Legislature is going to restrict the number of churches. [LB404]

SENATOR CARLSON: Amen. [LB404]

SENATOR CHAMBERS: (Laugh) But there might be something that the Legislature can do to give a message to indicate that saturation of neighborhoods with liquor licenses and establishments is not the thing to do. There are certain communities which will never have to worry about what I'm talking about. There are other communities which are dumping grounds for all of these things. Then when the attendant social evils occur, the community is condemned and low-rated. But put all of that liquor in other communities, and you will see what happens there also. Why are they so careful to keep them out of certain communities? Because they know the harm that follows them. I don't think that this bill ought to be enacted into law... [LB404]

SENATOR SCHIMEK: One minute. [LB404]

SENATOR CHAMBERS: ...and I shall vote against it. Thank you, Madam President. [LB404]

SENATOR SCHIMEK: Thank you, Senator Chambers. Senator Wightman, your light is next. [LB404]

SENATOR WIGHTMAN: Thank you, Madam President, members of the body. Senator Chambers has me a little confused, not that I'm not confused a lot of the time, but he has lectured us a number of times, we young fledgling senators--I don't know that the young applies to me but fledgling nevertheless--about how sometimes you amend a bill to make it better even though you're going to vote against the bill. And this may be part of the mixed martial arts; I just haven't got the fine tuning yet on this but I'm not able to tiptoe through the tulips, so to speak, and hit the right button in the right situation, perhaps. But I did vote in favor of the bill because I think it makes it less objectionable. I have a real problem with the fact that we are providing health insurance. I don't know how much the two that are in their 80s are getting as far as health insurance benefits, but nevertheless if somebody else is appointed and I think we would all have to concede that when one is his 80s and another one is approximately 87, that it is likely that we will be replacing some of those members in not too many decades perhaps. So as a result I think it's very likely that there will be people appointed. We will be paying health insurance. And as I say, right now, that comes to about a \$10,000 average, but about \$13,000 if they elect family coverage. And so somebody who is getting \$12,500 is getting benefits of more than \$12,500, and it's probably a \$30,000-a-year job if you factor in the benefits. So I will oppose the bill for those reasons. Again, I don't think you

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can draw a parallel between this body as legislators who are getting no benefits, who receive a salary less than the family insurance costs for the average state employee because it has gone up. I know that Senator Janssen makes the argument that it hasn't increased since 1973 but I would dare say that at least the availability of benefits has probably doubled or tripled in that same 30-year period. So it's not like they have been static and so I will oppose the bill. Thank you, Madam President. [LB404]

SENATOR SCHIMEK: Thank you, Senator Wightman. On discussion of LB404, seeing no lights, Senator Janssen, to close on LB404. [LB404]

SENATOR JANSSEN: Thank you, Senator Schimek. It was a pretty good discussion. And you have to realize that the Governor has the right to set that salary up to \$16,000. How long it took them to get to the \$12,500, I'm not sure. But I believe that you're going to get exactly what you pay for so I would ask for your support of the bill and the advancement. Thank you. [LB404]

SENATOR SCHIMEK: Thank you, Senator Janssen. You've heard the closing on LB404. The question is advancement to E&R Initial. All in favor vote aye; all opposed vote nay. Have you all voted who wish to vote? Senator Janssen, did you wish to be recognized? [LB404]

SENATOR JANSSEN: There is no need to do what I was going to do, Madam Chairman. (Laughter) [LB404]

SENATOR SCHIMEK: Thank you, Senator Janssen. Record, Mr. Clerk. [LB404]

CLERK: 13 ayes, 25 nays on the motion to advance. [LB404]

SENATOR SCHIMEK: The bill does not advance. Next item on the agenda, Mr. Clerk. [LB404]

CLERK: Madam President, LB289. (Read title.) The bill was introduced on January 10, referred to the Government, Military and Veterans Affairs Committee, advanced to General File. I do have committee amendments. (AM316, Legislative Journal page 546.) [LB289]

SENATOR SCHIMEK: Thank you, Mr. Clerk. Senator Louden, you are recognized to open on LB289. [LB289]

SENATOR LOUDEN: Thank you, Madam President and members of the body. I would like to thank Speaker Flood for making LB289 a Speaker priority bill this year. LB289 is intended to protect the secrecy of the ballot at public meetings where registered voters may vote to exceed levies. Our state constitution requires that the secrecy of ballots be

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protected. LB289 is meant to ensure that constitutional mandate. Before speaking directly to the bill, I would like to offer a bit of history. The Legislature placed property tax limits on political subdivisions in 1998. The Legislature also gave subdivisions the ability to exceed those limits in some cases. The statutes set out several ways to do that. One way is to hold a special election. Another is to hold a public meeting to vote on exceeding the levy. LB289 addresses this method of overriding the levy. It does not deal with any other method of exceeding the levy limit. LB289 deals only with the public meeting. The public meeting is not a widely used method and it is not available to many political subdivisions. Villages may use the public meeting method. Other political subdivisions that may use the public meeting method are those that must ask the county board to allocate a portion of its levy to them. Examples are hospital districts, fire protection districts, and as far as I know both of these types of subdivisions have used the public meeting method to vote on overriding the levy limit. The statute is short on details as to how to conduct this vote. It simply says that at least 10 percent of the registered voters of the subdivision constitute a quorum; that if a majority of the registered voters present vote to exceed, a copy of that record action is given to the county board and the board shall authorize the levy. There is no detail given as to how the vote shall be conducted. Because details are sketchy, districts have relied, in part, on an Attorney General Opinion in 1998. The opinion states, in part, that the election should include listings of the registered voters who are present as established by the signature list of registered voters attending and voting. Last September the Gordon Memorial Hospital district in my legislative district held a public meeting to override the levy allocation. A meeting was called in accordance with all the provisions for giving public notice. Registered voters of the district attended the meeting where their eligibility to vote was verified using records furnished by the county election officer. A quorum was present. The method of voting was assigning of a list. Voters who were for the override signed one list at a designated table and the voters who were opposed to the override signed at another designated table. There were sufficient votes to override and that the vote was reported to the county board as required by the statute. A registered voter of the hospital district contacted me afterwards to say that they did not like the fact that everyone present could see who signed each list. In effect there was no privacy afforded those who voted. I looked into the issue and the Bill Drafters Office pointed out that Article VI, Section 6 of the state constitution requires the methods of voting authorized by the Legislature must protect the secrecy of the ballot. I have provided a copy of the article to you, and as you can see it is pretty simple: All votes shall be by ballot or by other means authorized by the Legislature whereby the vote and the secrecy of the elector's vote will be preserved. The changes proposed by LB289 are intended to ensure the secrecy of the elector's vote is preserved and to give clear guidance to villages and political subdivisions so that they may do that. There are committee amendments to LB289 which Senator Aguilar will explain to you. They do not affect the substance of LB289. They are mostly revisor parts to the bill and I would ask that you advance LB289 and will be glad to answer any questions. Thank you, Mr. President. [LB289]

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SENATOR SCHIMEK: Thank you, Senator Louden. As the Clerk mentioned there are committee amendments to LB289. Senator Aguilar, you are recognized to open on the committee amendments. [LB289]

SENATOR AGUILAR: Thank you, Madam President and members. The committee amendment strikes provisions in Section 77-3444 dealing with special elections held before October 10, 1998. This is simply a cleanup amendment and intended to eliminate obsolete language. The committee advanced this bill on a 7-0 vote with one member being absent. I encourage your support of the amendment, as well as the underlying legislation. Thank you Madam President. [LB289]

SENATOR SCHIMEK: Thank you, Senator Aguilar. We are on discussion of the committee amendment. Seeing no lights, Senator Aguilar...Senator Aguilar waives closing. The question is, then, the adoption of AM316 to LB289. All in favor vote aye; all opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB289]

CLERK: 35 ayes, 0 nays on adoption of committee amendments. [LB289]

SENATOR SCHIMEK: Committee amendments are adopted. We are now back to discussion on LB289. Seeing no lights, Senator Louden, you are recognized to close on LB289. [LB289]

SENATOR LOUDEN: Thank you, Madam President, and I appreciate the support and I would ask that you advance LB289. [LB289]

SENATOR SCHIMEK: The question is the advancement of LB289 to E&R Initial. All in favor vote aye; all opposed vote nay. Have you all voted who wish to vote? Record, Mr. Clerk. [LB289]

CLERK: 35 ayes, 0 nays on the advancement of the bill, Madam President. [LB289]

SENATOR SCHIMEK: The bill does advance. Next item on the agenda, Mr. Clerk. [LB289]

CLERK: LB144 by Senator McDonald. (Read title.) Introduced on January 8, referred to the Health Committee, advanced to General File. I do have committee amendments. (AM297, Legislative Journal page 662.) [LB144]

SENATOR SCHIMEK: Thank you. Senator McDonald, you are recognized to open on LB144. [LB144]

SENATOR McDONALD: Madam President and members, LB144 creates the Hepatitis

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C Education and Prevention Act. Former Senator Jeanne Combs introduced a similar bill last year which advanced to General File. Unfortunately time ran out before the Legislature could take up her bill. For many people hepatitis C is an unknown disease. A recent survey showed that only 49 percent of the general public is aware of this disease as compared to 81 percent who are aware of HIV/AIDS. According to the National Institute of Health, hepatitis C is the most common blood-borne pathogen in the United States. It is the leading cause of liver cancer and liver disease, and the leading cause of the need of liver transplants in our country. Ten thousand people in the United States each year die waiting for a liver transplant. Hepatitis C affects four times as many people as HIV/AIDS. Currently, over 4 million people in our country are affected with hepatitis C compared to between 800,000 and 900,000 who are living with HIV/AIDS. A 2005 Duke University study showed that the United States' incidence of undiagnosed hepatitis C cases is a latent threat to our public health. Based on CDC statistics, there are as many as 17,000 unidentified hepatitis C cases in Nebraska. Hepatitis C is a silent and patient disease. There are no symptoms for 15 to 20 years after the patient becomes infected. There is vaccine to prevent the spread of hepatitis C. Only 41 percent of Nebraska healthcare providers screen patients for hepatitis C risk factors. Like most Nebraskans, I first heard about hepatitis C during the tragic outbreak in Fremont in 2002. I was shocked to learn that patients being treated for cancer at a Fremont clinic were infected with a potentially fatal and incurable disease. What a tragedy for those patients and their families, as if cancer wasn't enough to cope with. Hepatitis C is commonly transmitted by blood-to-blood contamination. Health officials determined that improper medical techniques and procedures and gross negligence at the clinic infected 99 cancer patients with hepatitis C. Did you know that if you had a blood transfusion in the United States prior to 1992, you could meet one of the risk factors of hepatitis C? You have a list of hepatitis C risk factors on your desk. Hepatitis C is a public safety threat which is made worse by the lack of knowledge and awareness in the general public, and surprisingly in the healthcare professionals, too. Nebraska does not have a plan in place to address the epidemic of hepatitis C, and we do not appropriate funds to support treatment of those affected with the disease, to train healthcare professionals on how the disease is spread and how it can be prevented. We do not have a plan to educate the public about the disease. But Nebraska is fortunate to have a federally funded hepatitis C coordinator in this state. However, without an organized strategy to address the epidemic in our state, one person can only make much progress. LB144 creates the Hepatitis C Education and Prevention Act and provides for an 18-member task force to develop a comprehensive strategic plan to address the increasing hepatitis C epidemic Nebraska will face. You have a list of the task force members on your desk. The committee amendment allows the Governor to appoint the nonlegislative members of the task force. In 2001, the Center for Disease Control and Prevention developed a comprehensive strategic plan for the prevention and control of hepatitis C in the United States. LB144 supports the national plan developed by the CDC by requiring the development of strategy to, number one, raise awareness and educate the public regarding hepatitis C; to develop targeted

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educational opportunities for healthcare professionals; and to foster collaboration between agencies working with the population as an increased risk for hepatitis C; evaluate available funding sources. The strategic plan is to be finished by the end of 2007 and will generate policy recommendations or future legislation. LB144 contains an emergency clause. It is our hope that this strategic plan with its emphasis on prevention and education will prevent another disaster like the one that happened in Fremont. I'm not an expert on hepatitis C, but as a legislator I recognize the state's desperate need for awareness, education, and prevention of this cause. LB144 would develop a strategic framework that we can use to help Nebraskans avoid this disease through education and prevention. I encourage you to advance this bill to Select File and I thank you for your time and interest. And I was one of those that had no understanding of what hepatitis C was, and when they showed me the risk factors I thought, well, that's not a problem, that's not a problem. Oh, my goodness. If you had blood transfusions before 1992, you could have received contaminated blood. I remember back in my life, thinking, okay, did I ever have a blood...oh, my goodness, in 1969 when my second daughter was born, I hemorrhaged. I received a blood transfusion at that point in time. I need to get to the doctor and just have a test to make sure that I don't carry hepatitis C. And if I do have that, all the children that I had after that pregnancy, that delivery, will also have the hepatitis C virus, so...the hepatitis C illness. You know, we think sometimes that it just happens to those that have risky behaviors, but it could happen to us unknowingly. It could be a veteran that stood in the line with an injection and that gun went from soldier to soldier to soldier and they could be infected, not knowing for 15 to 20 years after the fact. This is an important bill that we need to address because it could affect you and I and our children. Thank you. [LB144]

SENATOR SCHIMEK: Thank you, Senator McDonald. We now go to the committee amendments. Senator Johnson, as Chair of the Health and Human Services Committee, will open on the amendment. [LB144]

SENATOR JOHNSON: Madam President, members of the Legislature, this will be quite short. This is AM297. What this is, is an amendment of technical nature. It revises the provisions relating to the appointment of the members of this Hepatitis C Education and Prevention Task Force. The amendment clarifies the Governor's obligation to appoint certain members of the task force. The amendment also provides that task force members must be appointed within 30 days after the effective date of the bill. The bill, as introduced, required that members be appointed by May 1, 2007. So two very small changes. One is that it clarifies who does the appointing to the task force, and then changes the date to 30 days after the effective date of the bill rather than a specific date, which was May 1 of this year. With that, Madam President, I would ask for the adoption of this committee's bill (sic), AM297. [LB144]

SENATOR SCHIMEK: Thank you, Senator Johnson. Seeing no lights, Senator Johnson, would you like to close on the committee amendments? Senator Johnson

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waives. So the question is the adoption of AM297 to LB144. All those in favor vote aye; all opposed vote nay. Have you all voted who wish to vote? Record, Mr. Clerk. [LB144]

CLERK: 31 ayes, 0 nays on adoption of committee amendments. [LB144]

SENATOR SCHIMEK: The committee amendment is adopted. We are now back to discussion on the bill. Seeing no lights, Senator McDonald...oh, Senator Fulton is recognized to speak on the bill. [LB144]

SENATOR FULTON: Thank you, Madam President. Would Senator McDonald yield to a quick question? [LB144]

SENATOR SCHIMEK: Senator McDonald, would you yield? [LB144]

SENATOR McDONALD: Yes, Senator Fulton. [LB144]

SENATOR FULTON: Did I...am I reading the bill correctly that this task force shall have reached their conclusions by the end of this year? [LB144]

SENATOR McDONALD: Yes. [LB144]

SENATOR FULTON: Okay. [LB144]

SENATOR McDONALD: Yes. [LB144]

SENATOR FULTON: I wish all government could work in that manner. I just wanted to clarify that. That's what I read and that's what I understand, so thank you, Madam President. [LB144]

SENATOR SCHIMEK: Thank you, Senators Fulton and McDonald. Senator Nelson's light is on. Senator Nelson, you are recognized. [LB144]

SENATOR NELSON: Thank you, Madam President and members of the body. Would Senator McDonald entertain a question or two? [LB144]

SENATOR SCHIMEK: Senator McDonald, would you yield? [LB144]

SENATOR McDONALD: Yes, I would. [LB144]

SENATOR NELSON: Senator McDonald, you made some reference to, I guess, a coordinator of some sort that would be funded by the federal government. Is that the state hepatitis coordinator, number 2, is that who you're referring to? [LB144]

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SENATOR McDONALD: We already have one here in the state of Nebraska that's funded by the federal government. [LB144]

SENATOR NELSON: All right. Is that the only thing that they do? [LB144]

SENATOR McDONALD: Is work on the hepatitis? [LB144]

SENATOR NELSON: Okay. [LB144]

SENATOR McDONALD: Yes. [LB144]

SENATOR NELSON: I'm just curious. Why does it take 18 people, I mean a committee of that size, to develop the things that you want to do under this bill? [LB144]

SENATOR McDONALD: I think that when you look at the amount of people isn't probably the issue, is the different backgrounds that these people come from. And I think that when we look at that, we have to have people from different facets of life to bring it together, and that was never an objection. [LB144]

SENATOR NELSON: But you don't feel the full-time coordinator has the time or the resources just to get all that information and develop plans as perhaps a one-person committee? [LB144]

SENATOR McDONALD: No. [LB144]

SENATOR NELSON: All right. Thank you, Senator, Madam President. [LB144]

SENATOR SCHIMEK: Thank you, Senators Nelson and McDonald. Seeing no further lights, Senator McDonald, you are recognized to close on the bill. [LB144]

SENATOR McDONALD: And this is going to be brief and I think the issue is the education, because it is a silent killer, there is no vaccine for this. Regardless of what happened, you're not going to know for 15 or 20 years whether you have hepatitis C. And the only cure, basically, is a liver transplant, and we certainly don't have enough livers and people are dying waiting for one, and that's the only way that they'll have sustained life. And I think that's something that we need to educate the people; at least realize that you do have it so you don't give it to someone else. And it could be just a simple thing of blood touching blood, and unfortunately you could then become infected with hepatitis C and we need to make sure that if you know that you have it, that you understand that you can contaminate someone else, or in the situation in Fremont where it was intentionally done to those people. That's a sad state of affairs that those people were going in for cancer treatment and then found out that they contacted hepatitis C intentionally. Thank you. [LB144]

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SENATOR SCHIMEK: Thank you, Senator McDonald. You have heard the closing on the advancement of LB144 to E&R Initial. All in favor vote aye; all opposed vote nay. Record, Mr. Clerk. [LB144]

CLERK: 31 ayes, 0 nays on the advancement of LB144. [LB144]

SENATOR SCHIMEK: The bill does advance. Mr. Clerk, the next item. [LB144]

CLERK: LB188 by Senator Mines. (Read title.) The bill was introduced on January 9, referred to the Banking Committee, advanced to General File. At this time I have no amendments to the bill, Madam President. [LB188]

SENATOR SCHIMEK: Thank you, Mr. Clerk. Senator Mines, you are recognized to open on LB188. [LB188]

SENATOR MINES: Thank you, Madam Chair, colleagues. LB188 would eliminate a notice of requirement relating to motor vehicle service contracts. LB188 would correct issues raised after language from a bill last year, LB652. It was amended on the floor during debate to last year's LB875, and that was the Department of Insurance bill. The amendment was adopted. There were many concerns out in the lobby, as well as the business community, that the amendment would jeopardize the Department of Insurance bill. And so those concerns and those individuals agreed to let the bill go through and we would correct it this year in this session. The concerns revolve around whether language adopted was unconstitutional due to disparate treatment of domestic and foreign reinsurers of motor vehicle service contracts. Concern with the language, I requested an Attorney General's Opinion because the AG could be called in to defend the state in an action regarding the constitutionality of a law. He would not specifically answer my question but rather stated that it could be argued that requiring the notice of risk could constitutionally discriminate against foreign insurers. Some may argue that simply repealing the language that exempts Nebraska domiciled companies to be sufficient, but we don't have any Nebraska domiciled reinsurers, so therefore I was concerned about the equal protection argument, and thus we have LB188 crafted. LB188 was heard by the Banking, Commerce and Insurance Committee. It was voted out of General File 7-0. There was no opposition to the bill and I would appreciate your support of LB188. Thank you, Madam Chair. [LB188]

SENATOR SCHIMEK: Thank you, Senator Mines. Is there discussion on LB188? Seeing no lights, Senator Mines...Senator Mines waives closing. So the question is the advancement of LB188 to E&R Initial. All in favor vote aye; all opposed vote nay. Have you all voted who wish to vote? Record, Mr. Clerk. [LB188]

CLERK: 29 ayes, 0 nays on the advancement of LB188, Madam President. [LB188]

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SENATOR SCHIMEK: The bill does advance. Next item on the agenda, Mr. Clerk. [LB188]

CLERK: LB208, a bill by Senator Aguilar. (Read title.) The bill was introduced on January 9 of this year, referred to the Government Committee, advanced to General File. There are Government, Military and Veterans Affairs Committee amendments pending. (AM498, Legislative Journal page 695.) [LB208]

SENATOR SCHIMEK: Thank you. Senator Aguilar, you are recognized to open on LB208. [LB208]

SENATOR AGUILAR: Thank you, Madam President and members. LB208, current law provides that the state of Nebraska and all public bodies must have a payment bond in an amount not less than the contract price for the furnishing, erecting, or repairing any public structure or improvement. For projects of the state, this applies to all contracts in excess of \$15,000. For the political subdivision, this applies to all contracts in excess of \$5,000. These cost thresholds were enacted in 1990 when construction prices and labor were considerably lower. For example, a \$5,000 bond may cost a small local contractor \$200 which is passed on to the cost of the project to the local subdivision. Also the small contractor may not meet the bonding company requirements or simply will not bid on this small of a contract. For housing authorities, this contract frequently for the repairs and improvements necessary under the Americans with Disabilities Act or for the routine upkeep, these bonds' costs have eaten into a dwindling revenue stream. It is the intent of LB208 to update the bonding threshold to reflect current construction and repair costs and to encourage more local participation, especially among minority and women's businesses. Thank you, Madam President. [LB208]

SENATOR SCHIMEK: Thank you, Senator Aguilar. We are on discussion of LB208. Senator Aguilar, there are committee amendments. Would you like to open on the committee amendments? [LB208]

SENATOR AGUILAR: Thank you, Madam President. At the public hearing, the committee heard testimony from the builders and contractors that the threshold for payment bonds for local political subdivisions set forth in the original LB208 were too high. In order to address their concerns, the committee amendment strikes the original section and becomes the bill. With the amendment, labor and material payment bonds shall not be required for any project bid or proposed by a local political subdivision which has a total cost of \$10,000 or less. The threshold for payment bonds for the state remains at \$15,000 or less. The committee advanced the bill with the amendment on a 7-0 vote with one member being absent. I encourage the body to adopt the committee amendment and also support the underlying legislation. Thank you, Madam President. [LB208]

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SENATOR SCHIMEK: Thank you, Senator Aguilar. You've heard the opening on the committee amendments. Is there any discussion? Seeing none, Senator Aguilar...Senator Aguilar waives closing. The question is, then, the adoption of AM498 to LB208. All in favor vote aye; all opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB208]

CLERK: 32 ayes, 0 nays on adoption of committee amendments, Madam President. [LB208]

SENATOR SCHIMEK: The committee amendment is adopted. We are now back to discussion of LB208. Seeing no lights, Senator Aguilar, would you like to close on LB208? [LB208]

SENATOR AGUILAR: Thank you, Madam President. Very briefly I would just like to thank the Speaker for prioritizing this bill and I encourage everyone to support it. Thank you. [LB208]

SENATOR SCHIMEK: Thank you, Senator. The question is, then, the advancement of LB208 to E&R Initial. All in favor vote aye; all opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB208]

CLERK: 31 ayes, 0 nays, Madam President, on the advancement of LB208. [LB208]

SENATOR SCHIMEK: The bill does advance. Next item on the agenda, Mr. Clerk. [LB208]

CLERK: Senator McDonald offers LB274. (Read title.) It was introduced on January 10, referred to the Judiciary Committee, advanced to General File. I do have Judiciary Committee amendments. (AM490, Legislative Journal page 868.) [LB274]

SENATOR SCHIMEK: Thank you. Senator McDonald to open on LB274. [LB274]

SENATOR McDONALD: Madam President and members of the body, LB274 deals with liquefied petroleum gas, which is also called propane. Propane is widely used particularly in rural areas. In its natural form, propane is colorless and odorless. To make propane easier to detect, manufacturers add a chemical compound to give it that propane smell. Propane is transported and stored as a very cold liquid. The liquid is turned into a gas inside a tank or a cylinder. Propane is flammable when mixed with air and can be ignited by many sources, including open flames, smoking material, electrical sparks, and static electricity. Propane vapors are heavier than air so they tend to accumulate in low-lying areas like basements, crawl spaces, ditches, and along floors. A leading cause of propane accidents is improper installation or changes to a residential

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or small agricultural propane system, allowing propane vapors to leak from the system. Improper installations in Nebraska have resulted in property loss, injuries, and deaths. I'm amazed at how foolish some do-it-yourselfers can be as they use materials not intended for use with propane, such as garden hoses, the wrong size and type of piping materials and parts, and they often reassemble the propane system incorrectly. You have a handout with photos that show actual installations using the wrong materials. LB274 requires the retail propane supplier to place a container warning label near the tank shutoff valve. This warning label language is specified in the bill and warns the propane user to not turn the propane system on before a leak check is performed by a qualified technician. A leak check determines if the propane system is safe for operation, requires the use of specific tools, and must be performed by a qualified technician following the national fuel gas code as adopted by the Nebraska State Fire Marshal. Whenever a propane gas system is turned off, service is interrupted. Safety hazards exist if a leak check is not performed before placing the propane system back in service. Normal reasons for interruption of service including repairs to the system, new appliance or line installation or removal, and regulator or valve changes. LB274 makes propane safety the responsibility both of the retail propane supplier and the residential and small agricultural propane user. It does not affect propane grills. The retail propane supplier must place the warning label near the shutoff valve on all residential and small agricultural propane tanks. If a propane user does not comply with a leak check equipment requirement, the retail propane supplier is not liable for damage, injury, or death resulting from failure to have a leak check performed. The committee amendment brings the language in the liability section in line with the common liability statutes. The immunity provision applies only to the failure to have a leak check performed after the interruption in service. Retail propane suppliers have until July 1, 2008, to affix the warning labels to residential and small agricultural tanks. LB274 increases the safety of propane users by warning them of the need for a leak check of their propane system. I encourage you to send LB274 to Select File. Thank you. [LB274]

SENATOR SCHIMEK: Thank you, Senator McDonald. You've heard the opening on LB274. We now go to the committee amendments. Senator Ashford, as Chair of the Judiciary Committee, would you like to open? [LB274]

SENATOR ASHFORD: Yes, thank you, Madam President. Senator McDonald explained both the bill and the amendment pretty fairly well, and I appreciate her working with the committee in addressing the concerns of the committee in the committee amendment. The committee amendment, as Senator McDonald stated, provides that the warning label--and you have copies of the warning label sent to you--required by the bill must include the statutory reference to the law, which it does. Furthermore, the amendment changes the liability provisions of the bill as amended, the liquefied petroleum gas provider will not be held liable for any damage, injury, or death resulting from the system having been turned on prior to the required leak check if the label is displayed pursuant

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to the bill and the approximate cause of the damage, injury, or death was the negligence of some other person or third party. And that quite simply is the amendment, committee amendment, Madam President. [LB274]

SENATOR SCHIMEK: Thank you, Senator Ashford. Senator Lathrop, on the committee amendment. [LB274]

SENATOR LATHROP: Thank you, Madam Chair. I have...I worked with Senator McDonald on the amendment and the language with respect to the liability provisions, but I wanted...before I talk about that I wanted to talk about the LP gas and the risk it poses in the rural areas. This is...LP gas is used and this will affect primarily those folks in rural Nebraska who heat with LP gas. And I have, in my practice, seen a number of LP gas explosions and they happen because the odorant, it's called ethyl mercaptan, can fade. And you can walk into a room after you think you've aired it out and light a match or otherwise ignite the gas, and you have an explosion that will burn, it will damage property, it will kill people, and it will hurt people it doesn't kill. And so the warnings and the measure taken by Senator McDonald in this bill, as well as the LP gas folks who brought it to her, is a very good idea. We can't warn folks enough about some of the hazards of LP gas. The amendment to the liability provisions essentially codifies what is existing law and that is we put this warning label on there. As an inducement we make clear that those folks who are...who comply with the law, put the warning labels on their LP gas tanks and who are not otherwise negligent will not be subject to liability. It is a reiteration of existing law and I think on the whole the amendment is good and deserves our support as well as LB274, and I commend Senator McDonald for bringing this important issue to the floor. [LB274]

SENATOR SCHIMEK: Thank you, Senator Lathrop. Senator Fulton, your light is next. [LB274]

SENATOR FULTON: Thank you, Madam President. Would Senator Lathrop yield to a question? [LB274]

SENATOR SCHIMEK: Senator Lathrop, would you yield? [LB274]

SENATOR LATHROP: Yes, I would be happy to. [LB274]

SENATOR FULTON: Okay. It's easier for me to look at you than it is Senator Ashford. (Laugh) Could I ask the...one of the concerns about the stickers. I went to a breakfast with the folks in the petroleum industry and then I have a little experience through my work in engineering. A lot of times these stickers will come off of...they'll just fall off. Was that one of the reasons why this amendment was requested or not? There are other reasons, I understand, with regard to approximate cause or approximate cause or negligence or whatnot, but is that one concern that can be addressed with this

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amendment? [LB274]

SENATOR LATHROP: No, actually. And what I'm told when we were working on this bill and when I met with the LP gas people in Senator McDonald's office, was that many of the LP gas dealers are already putting labels similar to this. We have the reference to the statutory provision which is new, so we'll have to redo the labels, but we didn't hear anything about these labels peeling off the LP gas tanks. [LB274]

SENATOR FULTON: Okay. Okay, fair enough. Thank you, Madam President. [LB274]

SENATOR SCHIMEK: Thank you, Senators Fulton and Lathrop. Senator Nelson, your light is next. [LB274]

SENATOR NELSON: Madam President, members of the body, I don't know whether to address questions to Senator Lathrop or Senator McDonald. Senator McDonald is certainly much easier to look at than Senator Lathrop is. (Laughter) I guess I will start with Senator McDonald, if she will answer questions. [LB274]

SENATOR SCHIMEK: Senator McDonald, do you want to yield to a question? [LB274]

SENATOR McDONALD: Oh, after that, certainly. [LB274]

SENATOR NELSON: I've read this through quickly and I think this is a well-intended bill and probably is necessary in light of all the accidents that can happen. But it would seem to me that this would apply to propane tanks...I'm thinking in terms of summer cabins. I think Senator Wightman has one and it might be serviced by propane and I know of others who have these summer cabins with propane tanks. Generally, you arrive in the spring or whenever you go, and the propane tank has been turned off. The valve has been turned off and there is still a lot of pressure in there at the time you turn it off, so it sits there over the winter or you use it during the summer and then you shut the valve at the end of the season, go home, and it sits there with the valve closed and nothing else has changed. Does this bill mean then that when you come back the following spring and you want to turn the cap back on to release the propane, that you're going to have to have it checked at that time by the supplier? [LB274]

SENATOR McDONALD: It doesn't stop you from turning it on yourself. [LB274]

SENATOR NELSON: Okay. [LB274]

SENATOR McDONALD: The only thing that if you decided that you wanted to redo something and rework it, it just says, you know what, you need to get it checked. But it doesn't stop you from turning it on yourself, knowing that nothing has been tampered with hopefully by... [LB274]

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SENATOR NELSON: I just...I think I wanted that on the record that there wouldn't be any liability if you are there and nothing has changed, no work has been done or anything added. It's just a matter of turning the gas back on and then using it during the course of the summer. And that's okay as far as you understand it. [LB274]

SENATOR McDONALD: As far as I understand it. Probably no different than when you turn your gas log on. You have the gas shut off and then in the wintertime you decide you are going to work your fireplace, you just turn the gas back on. But now if you decided that you were going to put something in and change the direction of the gas and alter it with different...you know, putting a garden hose on and rerouting that gas somewhere else, that's the...it's been obstruction and changed. [LB274]

SENATOR NELSON: Is there any language to that extent in the bill that you're aware of, that makes that proviso, it's when changes are made? [LB274]

SENATOR McDONALD: I think you'll look at the label. [LB274]

SENATOR NELSON: Yeah. It says if the valve is turned off for any reason. [LB274]

SENATOR McDONALD: You know what, you might need to speak to the Judiciary Committee. Senator Lathrop worked very diligently with me on doing the legal part of this because I'm not an attorney. I certainly cannot answer those legal questions and so I would direct that to Senator Lathrop or to Senator Ashford, but preferably Senator Lathrop because he did help in this bill. [LB274]

SENATOR NELSON: All right. Thank you, Senator. Senator Lathrop, would you entertain a question then? [LB274]

SENATOR SCHIMEK: Senator Lathrop, would you yield, please? [LB274]

SENATOR LATHROP: Yes, I would be happy to. [LB274]

SENATOR NELSON: As a good attorney, you've been listening to the discourse up to this point? [LB274]

SENATOR LATHROP: I have. [LB274]

SENATOR NELSON: Do you have any comment then about the wording there, if this valve is turned off for any reason? [LB274]

SENATOR LATHROP: Well, I think the plain language is in the warning is if it's turned off for any reason. I suppose what I would do if I were to answer your question with a

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little more time would be to check NFPA Rule 54 and see. As I read it and the bill says any... [LB274]

SENATOR SCHIMEK: One minute. [LB274]

SENATOR LATHROP: ...interruption of any sort, whether or not turning your gas on or off is viewed by them as an interruption would probably be the determinative factor. [LB274]

SENATOR NELSON: All right. All right, thank you very much, Madam President. [LB274]

SENATOR SCHIMEK: Thank you, Senators Nelson, McDonald, and Lathrop. The next one to speak is Senator Hansen. [LB274]

SENATOR HANSEN: Thank you, Madam President and members of the body. I guess I need to have a question answered by Senator Lathrop also. [LB274]

SENATOR SCHIMEK: Thank you. Senator Lathrop, would yield? [LB274]

SENATOR LATHROP: Yes, I will. [LB274]

SENATOR HANSEN: Do we have an inconsistency on the amendment and the tag that will be placed on the barrel? And I assume that the orange warning label would be placed on the barrel. The bottom of the first paragraph said the leak check must be conducted by a qualified technician, and then in the...I don't have the amendment up, I guess, on the computer, but it says the gas provider, the LP provider. And those can be two different people. The LP provider will be the person in a truck coming out to fill your tank. The way I understood it at the breakfast that Tony, that Senator Fulton was talking about, I asked that question specifically: Is this a plumber that installs the piping to go to gas fireplace? Is this the plumber or the technician that installs a new stove? And they said, if that person is qualified, that the person has been through the training, that would be the qualified technician. But the amendment says gas provider. Is that correct? [LB274]

SENATOR LATHROP: Well, actually what you are asking me to do is to read the two documents and then tell you whether they're the same thing or they're the same person. I think what the warning clearly says, that it's a national fuel gas code that they're trying to comply with and so if that code permits the qualified technician or the provider...I assume all the providers are qualified technicians. Maybe that's not the case. I would have expected that you would have to be a qualified technician if you are going to be an LP gas provider because when you are bringing the tank out you have to unhook one tank and hook it back up, so you would have to be a qualified technician. Are there

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people...is the universe larger than the LP gas providers to include qualified technicians which might be a plumber or somebody like that? I assume that that answer is yes. [LB274]

SENATOR HANSEN: Okay. Just so we don't have an inconsistency with the amendment that we're talking about now. [LB274]

SENATOR LATHROP: I think the two are fine. [LB274]

SENATOR HANSEN: Okay. Senator McDonald, would you yield for a moment? [LB274]

SENATOR SCHIMEK: Senator McDonald, would you yield? [LB274]

SENATOR McDONALD: Yes. [LB274]

SENATOR HANSEN: Senator McDonald, I would very strongly advise you and everybody else in the body that when you turn off your gas stove in your house or wherever...not in your stove but in your fireplace that you were an example of, turn that thing off at the stove itself. Don't go outside and turn the bottle off of your big tank. You don't want to be turning that on and off. If you turn that off, you should have an LP provider come out and check it for a leak test. But if you turn it off, turn the pilot off, then you're done. And we shouldn't be messing with our tanks. [LB274]

SENATOR McDONALD: Well, actually natural gas generally isn't a tank. It's done through the pipes underground, and that's exactly how I do it. I do it at the fireplace where it just interrupts the service for the gas log, nothing more and nothing less, and so it just interrupts that service. Thank you for helping me though. [LB274]

SENATOR HANSEN: Thank you, Madam President. [LB274]

SENATOR SCHIMEK: Thank you, Senators Hansen, Lathrop, and McDonald. Senator Louden, you are next to speak. [LB274]

SENATOR LOUDEN: Thank you, Madam President and members of the body. Would Senator Lathrop answer some questions, please? [LB274]

SENATOR SCHIMEK: Senator Lathrop, would you yield? [LB274]

SENATOR LATHROP: Yes, I will. [LB274]

SENATOR LOUDEN: As I presume you've done quite a little bit of work on this, and as I look it over what it amounts to is all that this warning has to be affixed to near a shutoff valve. Is that actually all this bill does? [LB274]

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SENATOR LATHROP: It mandates that the warnings be placed on the LP gas bottle or tank, yes. [LB274]

SENATOR LOUDEN: And then in the wording it says...and then a leak check must be performed by a qualified service technician. Now, what happens if they don't get a qualified service technician or somebody else? Is there something in statutes that there is going to be some kind of a misdemeanor or anything or is that just...should that just be part of the warning that goes with a valve shutoff which you have if you're going to put it on statute? I guess my question is, what are we doing here and are we doing anything? [LB274]

SENATOR LATHROP: I think we are. First of all, I'm not familiar with any criminal code or statute that makes it a violation of any law to...or that you are subject to criminal sanction for failing to bring the technician out before you try to put an LP gas tank back into service. The problem that we heard about during the committee and in the meetings that I had afterwards with Senator McDonald, is the guy...and the biggest problem, Senator, is the guy who might have a problem with his line or maybe he wants to split his line, so he goes to the store, buys some parts at the hardware store that don't even fit, and then turns the gas line back on. By requiring that a qualified technician comes out, that person can look at the changes and the modifications to the line and make sure the system is... [LB274]

SENATOR LOUDEN: Then actually all this does is probably take the...it would affect the supplier's liability insurance. That's more what this does than anything else? Because there is nothing that says in here that anything bad is going to happen to him if he doesn't get a qualified technician to come and check that, is he? [LB274]

SENATOR LATHROP: The duty...well, first of all, I think it probably will lower the liability insurance for the provider. But the duty mandated by this is to the homeowner or the property owner, and not the gas supplier. The gas supplier doesn't do anything until he gets a phone call and says come on out here and check my lines; I've made some changes. [LB274]

SENATOR LOUDEN: Okay. Then one other question. What effect does this have on your propane cars or propane pickups and propane tractors and some of the equipment that is used for propane? What about someone that uses a propane bottle to hook a cutting torch up in shops and that sort of thing? Do they have to have a qualified technician to check for leaks on that or what? Because you have it as propane and you don't designate whether it's...what kind of use it would be for, whether it was for home installation or what. [LB274]

SENATOR LATHROP: I'll tell you, Senator, I didn't consider that. I wasn't aware of

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those purposes or those uses of propane. I would be happy to look through the bill and then give you my judgment as soon as I've had a chance to read it in light of your question. [LB274]

SENATOR LOUDEN: Okay. That's what I'm wondering in here because there is still a lot of...propane pickups were quite popular there several years ago when the gas shortage got hard to get. And there are still some propane tractors around, not many, but there are some of the antique models. But I would like to see something like that addressed in there, whether you have to have a qualified technician to check for leaks whenever you gas up your propane pickup or something. And also if you had to hook up your cutting torch, a lot of cutting torches in the rural areas run on propane instead of acetylene,... [LB274]

SENATOR SCHIMEK: One minute. [LB274]

SENATOR LOUDEN: ...so that's something that they are also used for. As far as around the housing and that sort of thing, the warning label, I agree with; it doesn't hurt to have that on there. I thought we used to always have a label on most of that stuff to tell you how to check for leaks using your soap and water rather than your lit match because you can find a leak either way. And so consequently I wonder if it needs to be, the bill needs to be enhanced a little bit more. [LB274]

SENATOR LATHROP: Senator, I would be happy, between General and Select, as well as Senator McDonald, to talk to the LP gas people and try to address your concerns. Are you suggesting that you would like to see further regulation or have this extend to those other uses, or not apply except for the home heating application? [LB274]

SENATOR LOUDEN: I would think you would want to waiver some of these uses that are... [LB274]

SENATOR SCHIMEK: Time. [LB274]

SENATOR LOUDEN: ...for pickups and cars. Thank you, Madam President. [LB274]

SENATOR SCHIMEK: Thank you, Senators Lathrop and Louden. Senator Wallman, your light is next. [LB274]

SENATOR WALLMAN: Thank you, Madam President and members of the body. I would be for this legislation, LB274, and the amendment. I think we, as farmers and local business people, a lot times we do hook those things up ourselves, and so we are responsible. But I usually call my propane man up because there was a house blown up in my district and some of the people were killed because they took a clothes dryer off and put some rinky-dink hookup up there and the propane stayed in the basement. And

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so I think anything we can do...it was not the propane supplier's fault. It was the homeowner. So if we keep transferring liability to the producer or the product supplier, pretty soon we won't have any more suppliers or they will tack it on to the price. So any kind of a warning label like the Judiciary Committee and Senator McDonald brought forth, I appreciate because I'm a propane user and so I want to keep using it; it's a good clean fuel. And so thank you, Madam President. I would urge the members to support this bill. [LB274]

SENATOR SCHIMEK: Thank you, Senator Wallman. Senator Erdman, you are recognized to speak next. [LB274]

SENATOR ERDMAN: Madam President and members of the Legislature, you'll find, courtesy of the wisdom of the Executive Board four years ago and the opportunity that we have Internet, you will find a copy of the current exemptions to NFPA 54, the national fuel gas code 54, distributed to you as a link in your e-mail. And if you would read that, the language that's on that page, you'll find that portable LP gas equipment of all types are exempt. The installation of farm equipment is exempt. Oxygen fuel gas cutting and welding systems are exempt. Fuel gas systems on recreational vehicles manufactured in accordance to the national fire protection...excuse me, NFPA 1192 is exempt. So there is a list of 19 exemptions that are there. I believe most of them address Senator Louden's concerns. But I do believe that Senator Nelson's concerns regarding the residences and I believe the insight that Senator Hansen has given are a valuable part of any discussion that should proceed prior to LB274 being placed on Select File for our debate. But I wanted to bring to your attention that there is information available to state what the exemptions currently are. You can review that at your leisure and you can follow-up with Senator McDonald, as well, if you have other questions. Thank you, Madam President. [LB274]

SENATOR SCHIMEK: Thank you, Senator Erdman. Following up with discussion on the committee amendments, Senator McDonald, you are recognized to speak. [LB274]

SENATOR McDONALD: Thank you, Madam President and members of the body, and thank you, Senator Erdman, for looking that up and reading that to us. I think sometimes we need that additional information to know what's included in this and what's not included in this, and by having this debate on the floor we certainly have that information so that we absolutely know when and where, where and why the label is on there, and who needs to make sure that when that interruption of service happens that the right person is there to protect us. And basically that's what it is there for, is to protect us from us from our stupidity and to let people know that there are a lot of do-it-yourselfers out there that love to go in and save a little money. But as we've seen by some of those pictures, they didn't save any money at all. In fact, they could have lost their lives. And who knows? At some point in time maybe someone has lost their life just because they tried to save a few dollars. So it's only for our protection that we

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implement something like this. And as some of us have stated on the floor that if there is any additional questions we certainly can work on this before Select File. But I do hope that you support this and pass this on and we'll make sure that it does address your concerns. Thank you. [LB274]

SENATOR SCHIMEK: Thank you, Senator McDonald. Senator Hansen, you're next in line. [LB274]

SENATOR HANSEN: Thank you, Madam President. May I ask Senator Ashford a question, please? [LB274]

SENATOR SCHIMEK: Senator Ashford, would you yield? [LB274]

SENATOR ASHFORD: Sure. Are you sure you don't want Senator Lathrop to...? [LB274]

SENATOR HANSEN: No, I would rather look at you. (Laughter) [LB274]

SENATOR ASHFORD: Okay. I planted that so it's not... [LB274]

SENATOR HANSEN: In Section 1, page 2 of the green copy, do you have that in front of you or on your machine, either one? [LB274]

SENATOR ASHFORD: Well, I don't have it right in front of me but I can...okay. [LB274]

SENATOR HANSEN: Section 1, grouping 2, I'll just read it to you. It says, "It is the intent of the Legislature to create a mechanism that will educate users of liquefied petroleum gas of the requirements for a leak check when an interruption of service occurs." [LB274]

SENATOR ASHFORD: That's correct. [LB274]

SENATOR HANSEN: It will educate users of LP gas. How did this end up in the Judiciary Committee and not the Education Committee? [LB274]

SENATOR ASHFORD: We don't need anything more in the Education Committee. (Laugh) But this is, you know, to answer your question for the record, Senator, this started out as a liability bill and there are liability provisions in the bill. But I think the overriding concern is education, as Senator McDonald suggests, but there are liability provisions in here and so that was the reason, I'm sure, why it was sent over to Judiciary. [LB274]

SENATOR HANSEN: Liability provisions of the provider? [LB274]

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SENATOR ASHFORD: What would happen if the...yes, a provider of the LP gas. Correct. [LB274]

SENATOR HANSEN: Would it be beneficial to the bill to make the bill stronger to make some fines in it if people cause an accident? Cause...okay, I'll give you an example. A plumber that is not a certified technician installs a gas fireplace. The house burns up; blows up because of a leak. Shouldn't there be something to come back on that unqualified person that didn't do a leak check? [LB274]

SENATOR ASHFORD: Some sort of criminal liability? You're suggesting some sort of criminal liability? I mean, we did...we talked about all the possibilities and landed on this as the best way to do it. But you could, certainly, if one wanted to, you could add a fine to this. But I think it was the sense of the committee that the liability would cover it if this particular warning was not present. So I...certainly, if that would be...the body could do that if it desired, but that was not the sense of the committee. [LB274]

SENATOR HANSEN: Okay. Thank you, Madam President. [LB274]

SENATOR SCHIMEK: Thank you, Senators Hansen and Ashford. Senator Lathrop, your light is next. [LB274]

SENATOR LATHROP: Thank you, Madam President. I just wanted to respond to Senator Hansen's question. My own insight would be in that circumstance the nonqualified person who comes out to the house and does a negligent job of hooking it up or inspecting it would be subject to civil liability, and the civility liability in that instance would probably be for an entire house that blew up and maybe some personal injury. So the incentive is there. I don't think...if you think about it, trying to make a criminal conduct or a criminal penalty would then require that we have people go out and police and follow the inspectors and follow the people that have done a leak check to see if they've performed the leak check correctly. And I think the incentive is there. Civil liability does more than just sort out who has to pay whom; it provides an incentive for people to be careful. And so, as Senator Ashford said, we landed on that as the best way and provide the best incentive for people to do a proper job when they inspect or otherwise tinker with an LP gas system. Thank you. [LB274]

SENATOR SCHIMEK: Thank you, Senator Lathrop. Senator Stuthman, your light is next in line. [LB274]

SENATOR STUTHMAN: Thank you, Madam President and members of the body. I haven't been involved in the discussion or the debate on this bill very much, but Senator Loudon brought up a couple of issues that I have a concern with. And the thing that I'm trying to figure out is this is going to be a warning label that's put on the tank. We have

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1,000-gallon propane tanks that we put on our irrigation engines. They're on the farmstead. They come out and fill the tanks up. The shutoff is turned off and we pull them out to the irrigation well and hook them up to the irrigation motor. Will we be able to do this or will we have to get a qualified technician to run the lines to the engine and do that? We just hook up the lines and bleed them off a little bit and hopefully get the engine started. So, Senator Lathrop, could I ask you a question? [LB274]

SENATOR SCHIMEK: Senator Lathrop, would you yield, please? [LB274]

SENATOR LATHROP: Yes, I would be happy to. [LB274]

SENATOR STUTHMAN: Senator Lathrop, the illustration that I gave, would the farmer be liable if he hooked up his irrigation engine by himself? [LB274]

SENATOR LATHROP: Yeah, you know, we might be missing something here and the question illustrates the problem, and that is what we're dealing with is the relationship between the LP gas provider and the homeowner. The homeowner can do anything they want. They are not subject to criminal penalties for doing this stuff, so if you want to take your propane from the house out to your irrigation equipment or any other place you want to do it and you want to plug it into something, you can do that. This warning says you shouldn't. You can do it and you're not liable to yourself other than the fact that if you do a bad job and create a leak and it blows up, you and your equipment are at risk. But it doesn't mean that the LP gas dealer is subject to liability. They're not. [LB274]

SENATOR STUTHMAN: Okay. [LB274]

SENATOR LATHROP: It's just important...this is really protection of the LP gas provider. [LB274]

SENATOR STUTHMAN: Okay. Thank you, Senator Lathrop. Could I ask Senator McDonald a question? [LB274]

SENATOR SCHIMEK: Senator McDonald, would you yield? [LB274]

SENATOR McDONALD: Yes. [LB274]

SENATOR STUTHMAN: Senator McDonald, you are probably aware of hooking up irrigation engines like this. What would be your take on this? [LB274]

SENATOR McDONALD: Well, if you look at the code which is the national fuel gas code, NFPA 54, and if you look at that, it says the code shall not apply to the following items, and that's probably number two: installation of farm equipment such as brooders,

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dehydrators, dryers, and irrigation equipment to special atmosphere generators. And then it lists other exemptions that do not qualify under this code so they are exempt from the code, and that's a list of 19 exemptions. So, yes it would be exempt. You wouldn't have to have a qualified technician under that code because it's exempt. [LB274]

SENATOR STUTHMAN: Thank you, Senator McDonald. That is what I wanted to get, and get that on the record, because I think that would create quite a problem in those instances because I think, you know, what the real intent of this bill is what Senator Lathrop did mention was so that the gas companies weren't liable in case something happened in a home and blew up the home and destroyed all of their property. You know, this doesn't happen very often. You know, it may blow up the irrigation shed or something like that and the guy lays in the cornfield a little while getting his marbles back together after it blows up a little bit. But I think I've got my questions answered so thank you, Madam President. [LB274]

SENATOR SCHIMEK: Thank you, Senator Stuthman. Senator McDonald, you are recognized to speak. [LB274]

SENATOR McDONALD: Thank you. And I was just reiterating to Senator Stuthman of the exemptions and there are 19 of them and it deals with the automobiles, it deals with education, welding bottles, those types of things. And basically that is not what is included in the bill because of the exemption of the code. We're basically only dealing with residential and trying to save lives and making sure that the do-it-yourselfer does not decide that he is going to reconfigure his system and someone is negligent and houses explode, as you've seen in some of the pictures. So hopefully you'll support the amendment. As I've said before, if there are some issues, we certainly will look at it again in Select File and answer those questions. Thank you. [LB274]

SENATOR SCHIMEK: Thank you, Senator McDonald. Senator Ashford, there don't appear to be any more lights on. Would you like to close on the committee amendments? [LB274]

SENATOR ASHFORD: Yes, thank you, Madam President, and this has been a good discussion. I appreciate Senator McDonald bringing this bill and working with Senator Lathrop and other members of the committee to address the concerns. And with that I would just urge the adoption of the amendment, Madam President. [LB274]

SENATOR SCHIMEK: Thank you. You've heard the closing on the committee malignment. The question is the adoption of the amendment to LB274. All in favor vote aye; all opposed vote nay. Record, Mr. Clerk. [LB274]

CLERK: 33 ayes, 0 nays on the adoption of committee amendments. [LB274]

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SENATOR SCHIMEK: The committee amendment is adopted. We are now back to discussion of the bill as amended. Seeing no lights on, Senator McDonald...Senator McDonald waives closing on the bill. So the question is the advancement of LB274 to E&R Initial. All in favor vote aye; all opposed vote nay. Have you all voted who wish to vote? Record, Mr. Clerk. [LB274]

CLERK: 31 ayes, 0 nays, Madam President, on the advancement of LB274. [LB274]

SENATOR SCHIMEK: The bill does advance. Next item on the agenda, Mr. Clerk. [LB274]

CLERK: LR2, offered by Senator Rogert. Proposes an amendment to Article VIII, Section 12 of the Nebraska Constitution. The resolution was introduced on January 4, referred to the Urban Affairs Committee, advanced to General File. There are committee amendments pending, Madam President. (AM371, Legislative Journal page 601.) [LR2CA]

SENATOR SCHIMEK: Thank you. Senator Rogert, you are recognized to open on LR2CA. [LR2CA]

SENATOR ROBERT: Thank you, Madam President and members of the body. LR2CA is a duplication of LR272CA last year that passed the Legislature and was placed on the November 2006 ballot as Amendment 6. Unfortunately it was defeated, however I believe that this piece of legislation still merits access to the ballot and I believe that if we put this issue to the voters again with some time commitment and some education on the subject, it will be successful. LR2CA is a constitutional amendment that does a few things. It expands the authority to counties and also to cities beyond their boundaries. Cities and villages would be authorized within their own zoning jurisdiction and the Legislature would have the authority to determine that restriction to the extent of any county authority within the areas of city jurisdiction to provide TIF financing for projects in those areas. Currently, cities are only subject to court review. Authorizing legislative review would further ensure accountability and checks and balances for the future. (Inaudible) county's authority to approve tax increment financing projects provides for certain properties such as ethanol plants to be eligible for tax increment financing without having to be annexed by the city. Ethanol plants are typically located outside the city because of odors, noise, and traffic, and they usually need to be annexed to the city in order to receive TIF financing. More importantly, LR2CA removes the requirements that property be declared substandard and blighted in order to receive tax increment financing. It also adds the word "developing" to the qualifying purposes in rehabilitation, acquisition, or redevelopment. Article VIII, Section 12 of the constitution is currently being used as an economic development tool under the definition of substandard and blighted. It is not typically too difficult to meet those conditions in order

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to receive tax increment financing, however the law was originally meant to be used as a community blight project and remediation tool, and in this was the law is being misapplied. LR2CA would make it possible to use tax increment financing under a wider variety of conditions in order for economic development in Nebraska in addition to its use as a community blight remediation tool. For example, outside of Oakland, Nebraska, they are considering an ethanol plant and they would like to be eligible for TIF financing. The project was located about three miles outside of a city of the second class outside of their zoning jurisdiction and their corporate boundaries. In order to be qualified under today's law, they have had to spend around \$50,000 to hire a consulting company to find a reason to declare a portion of farm ground substandard and blighted. Their reasoning on the...to find for substandard or blighted is that in some areas of the farm there is water standing, thus could create mosquitoes to develop as a hazard for humans. Well, every farm ground in the world has a puddle somewhere along the way so basically this is a way around the current law to use TIF financing as an economic development tool. I'm for using it as an economic development tool and I'm for applying the laws correctly in the state. LR2CA would currently allow them to do this in two different fashions: by giving the county the authority to grant TIF financing subject to the Legislature's approval which would stop a skip annexation of a piece of ground out in the middle of the country which creates a zoning problem for everybody involved; it also eliminates the need to go declare this ground as substandard and blighted. I want to thank the Urban Affairs Committee and our legal counsel for coming up with some good language and putting some work behind it to make sure that we can get this on the ballot and get it passed through General File if the body so desires. I want to also put forth that I have commitments from many organizations to help push the education of this topic forth to the people as we move forward to the general ballot so that people can understand what it is they're voting for. So with that, Madam President, I will yield and we'll talk about the committee amendments when they come up. [LR2CA]

SENATOR SCHIMEK: Thank you, Senator Rogert. As the Clerk stated, there are committee amendments from the Urban Affairs Committee. Senator Friend, as committee Chair, would you like to open on those amendments? [LR2CA]

SENATOR FRIEND: Yes, I would. Thank you, Madam President and members of the Legislature. Senator Rogert did a good job of describing part of the thought process that has gone into this over the past few years. This committee amendment would simply extend the maximum financing period for TIF from 15 to 20 years. If you look at your gadget, I'm just going to kind of go through the committee statement, if you will, because I think it sums it up pretty well. The amendment reflects a belief by the committee, what we thought, the limitation of tax increment financing to a period of 15 years in a lot of ways no longer reflects the financial reality of modern development finance. The original legislation, by the way, LB476 in 1978 that placed tax increment financing authorization on the ballot, originally called for a 20-year finance period before it was amended down to 15 years by an amendment on the floor. As currently limited,

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projects which might be profitably undertaken are lost because the 15-year maximum financing period will not develop sufficient revenue to make the project feasible. Members of the Legislature, I think...as I mentioned, Senator Rogert did a pretty good job of explaining this, but here, to me, is the kicker. The Legislature, if the people choose to make it as such, will have the authority if this passes on the ballot to determine the terms of conditions upon which tax increment financing authority could be exercised. Since it specifies...it does specify in this language that the Legislature may authorize cities to use TIF. That's key. That's very important. And it's clear that the legislative authority would extend because of that. It's clear that legislative authority would extend to denying TIF. Folks, the state is taking control of it because it is being abused at times. Now, there would be a requirement that we, as a Legislature, have to adopt that enabling legislation before this constitutional amendment could be utilized. So the people vote for it, if they do, then we are tasked to take care of this. Here's the hypothetical because, you know, you hear rumblings all the time: Well, tax increment financing, it's going to run rampant; if this happens who knows what the state will do; who knows what these cities will do. This is the second part of the key. We determine what they can do. We also determine whether they can or not. Substandard and blighted is being abused right now. I think the old terminology or the old example Senator Connealy and others used to give is there were cornfields at a certain period of time that were substandard and blighted; let's TIF it. Well, I don't think that that was the original intent, so that's why we're here. Now, I would be happy to answer questions...the 15 to 20, you know, the committee talked about this and seemed fairly reasonable to deal with the type of construction projects and the financing that we need to deal with in today's construction environment. I would be happy to answer any questions about that committee thought process and everything else. I just think it makes sense, folks. That's it. For right now, that's all I would have. I would be happy to answer any questions about the committee amendments and the underlying LR2CA. With that, Madam President, I would conclude. Thank you. [LR2CA]

SENATOR SCHIMEK: Thank you, Senator Friend. Senator Synowiecki, you are recognized to speak. [LR2CA]

SENATOR SYNOWIECKI: Thank you, Senator Schimek, members of the Legislature. Senator Friend, would you yield to a question? [LR2CA]

SENATOR SCHIMEK: Senator Friend, would you yield? [LR2CA]

SENATOR FRIEND: Yes, I will. [LR2CA]

SENATOR SYNOWIECKI: Senator Friend, I think this was discussed last year on the floor of the Legislature, relative to this same constitutional amendment, as well. I think these concerns kind of played a role in the defeat of the measure on the ballot. Does this constitutional amendment as it's presented to us have anything whatsoever to do

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with the eminent domain question? And more particularly, does it in any way strengthen cities or counties or the state, for that matter, relative to eminent domain procedures and protocols? [LR2CA]

SENATOR FRIEND: The answer to your first question, Senator Synowiecki, no, it does not. And that's my understanding, that's the way all of this has been explained to me, not only by any legal counsel that I've, you know, come across, but also from the people that I've reached out to, to try to, you know, seek, you know, that type of information from, because I heard...I remember those comments and suggestions. [LR2CA]

SENATOR SYNOWIECKI: Well,... [LR2CA]

SENATOR FRIEND: Second,...oh, go ahead. [LR2CA]

SENATOR SYNOWIECKI: Well, Senator Friend, we did have discussions on this constitutional amendment last year, or two years ago, and eminent domain came up. And likewise, after it was on the ballot, I think there was a general perception,... [LR2CA]

SENATOR FRIEND: Right. [LR2CA]

SENATOR SYNOWIECKI: ...whether that was correct or not, that this constitutional amendment in some way enhanced eminent...or, yeah, eminent domain procedures. [LR2CA]

SENATOR FRIEND: Correct. And I think that that is the confusion that you deal with, with ballot amendments. I don't know how much to elaborate, Senator Synowiecki. I concur. I mean, I think that these are the type of things we deal with every time we maneuver our way onto the ballot. And I'm not really sure exactly what to do about that, except to try to explain it and filter some of these things out with discussions like you and I are having right now. [LR2CA]

SENATOR SYNOWIECKI: And Senator Friend, you touched on it, that there is current abuse with the eminent domain procedures, and there's...and particularly the abuses with categorizing properties as substandard and blighted, that sometimes cities make that property designation and sometimes it's misclassified. But this constitutional amendment has nothing to do with eminent domain procedures, but it has everything to do with properties that would be available for TIF. Is that right? [LR2CA]

SENATOR FRIEND: That's right. That has been my understanding, and that's the research that I did on it, because of the confusion, concerns, questions that I had, Senator Synowiecki, the same as you, over the last three years of dealing with this issue. [LR2CA]

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SENATOR SYNOWIECKI: Thank you. [LR2CA]

SENATOR FRIEND: You're welcome. [LR2CA]

SENATOR SCHIMEK: Thank you, Senators Synowiecki and Friend. Senator Fulton, you are recognized to speak. [LR2CA]

SENATOR FULTON: Thank you, Madam President. Would Senator Rogert yield to a question? [LR2CA]

SENATOR SCHIMEK: Senator Rogert, would you yield? [LR2CA]

SENATOR ROBERT: I would. [LR2CA]

SENATOR FULTON: This...I have some ignorance about this area, but there's something that I'm hoping you can enlighten me on. Does...at present, do counties have the ability to invoke tax increment financing? [LR2CA]

SENATOR ROBERT: No, that's what this bill does, and that's why cities currently have to annex the portion of ground, whatever it is that they want to do, if it's outside of their municipal borders. [LR2CA]

SENATOR FULTON: Okay, so is that...I guess, is that the...would you say that's the primary reason for this bill? Or is that secondary to what your primary reason is for introducing the bill? [LR2CA]

SENATOR ROBERT: I would call it either secondary or co-primary, along with the substandard and blighted portions of it. [LR2CA]

SENATOR FULTON: What would...this...I guess I haven't thought too deeply about this. What is...what would this entail by way of policy? We're saying that counties will also have the ability to invoke tax increment financing as an economic development tool. I guess I...can you allay my concerns about the expansion of this authority to the counties? [LR2CA]

SENATOR ROBERT: Your concerns are, yeah, giving counties authority, and as Senator Friend touched on in the committee amendment opening, we will have the ability to review every one of these projects that comes through. And currently, right now, they're only subject to court review. And now, by...when we extend these types of abilities to the county, we're going to be able to look at every one of these stays and say yea or nay on them. So it will...there will be some...there's actually more scrutiny involved after this bill gets done than there is currently. [LR2CA]

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SENATOR FULTON: Okay. And then a final question, if I may. The amendment that we had that was out on the ballot, in 2006 I think is when it was, did this...did that amendment include the provision for counties, do you recall? [LR2CA]

SENATOR ROBERT: Yeah. Yeah, it was nearly identical to the one we have now. The committee amendment changes...that's about the only change that this has versus the one on the ballot last year. [LR2CA]

SENATOR FULTON: Okay. Thank you, Senator. Thank you, Madam President. [LR2CA]

SENATOR SCHIMEK: Thank you, Senators Fulton and Robert. Senator Raikes, you're recognized to speak. [LR2CA]

SENATOR RAIKES: Thank you, Madam President, members of the Legislature. Senator Robert, if I could ask you a question, please? [LR2CA]

SENATOR SCHIMEK: Senator Robert, would you yield? [LR2CA]

SENATOR ROBERT: You bet. [LR2CA]

SENATOR RAIKES: Would you repeat again, what is the difference between this proposal and what was on the ballot? [LR2CA]

SENATOR ROBERT: Really, as far as I can tell, the only difference is the committee amendment that changes the refinancing period from 15 to 20 years. [LR2CA]

SENATOR RAIKES: And was the county part in there last year, or in the...? [LR2CA]

SENATOR ROBERT: It was, yes. [LR2CA]

SENATOR RAIKES: It was. So it's the extension of the time frame for the...? [LR2CA]

SENATOR ROBERT: Yeah. Basically, we just pulled the slip law from last time and resubmitted it, and then the committee amended that one portion. [LR2CA]

SENATOR RAIKES: Let me ask you this, and this may be a little out of bounds. What was the vote on the amendment the last time the voters had a chance to look at this? [LR2CA]

SENATOR ROBERT: It was pretty significant. I think it was somewhere around 60-40, the loss, or maybe a little more than that. [LR2CA]

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SENATOR RAIKES: And again, the only change is to make the exception...or, make the TIF financing period longer. So that would sort of be aiming in the direction that the voters really didn't think that the amendment before went far enough? [LR2CA]

SENATOR ROBERT: Well, I think a major reason that it went down is because it was not understood by the voters. There were so many initiatives and amendments to be voted on, on the ballot last year, that all the organizations that would normally be involved in the education of these types of issues to the people before the election, they were spending their money on Class I schools, 423, which was Stop Overspending, the video keno. Those types of things took all the resources involved normally in educating the public. When I read this short explanation on the ballot the first time, I had the same reaction that I assume most people would have: What the heck is that? And I think if somebody walks into the...and just, without having any preeducation on this, and reads it, they're going to vote it down. [LR2CA]

SENATOR RAIKES: Okay. Thank you, Senator. My reaction is...or, yeah, reaction to this is, I would say, very cautious. I know Senator Friend made the point that, well, the Legislature "may." The word "may" is, the Legislature has the authority. But my fear is that the Legislature is not going to...if the voters would adopt this, the Legislature is not going to feel that they have much latitude. It's going to be interpreted by the Legislature as more or less a directive that this is what you do. So I'm worried about that aspect of it. And then he also mentioned that the current language, the "substandard and blighted," is being abused. And I agree with that, I think it is. The only thing is, is that this seems to be going in the direction of, too many people are getting over the hurdle so let's take down the hurdle. We're sort of...and this is a significant policy. You know, to the extent you take taxable property out of the property tax base, which is what you're doing, you impact the taxable base for all the local subdivisions, cities and counties, and you also impact the property tax base for school districts. So to the extent this valuation goes out of the funding base for schools, the state has to step up with additional state aid to make up whatever is lost. So I...again, I'll listen, but I am... [LR2CA]

SENATOR SCHIMEK: One minute. [LR2CA]

SENATOR RAIKES: ...wary of this sort of proposal. Thank you. [LR2CA]

SENATOR SCHIMEK: Thank you, Senators Raikes and Rogert. The next speaker will be Senator Adams, followed by Senators Gay, Loudon, Pirsch, Fulton, Heidemann, Wightman, Hansen, and Rogert. Senator Adams. [LR2CA]

SENATOR ADAMS: Thank you, Madam President. Would Senator Friend yield to a question, please? [LR2CA]

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SENATOR SCHIMEK: Senator Friend, would you yield? [LR2CA]

SENATOR FRIEND: Yes. [LR2CA]

SENATOR ADAMS: Senator, at...in the introductory remarks you made about the committee amendment, you indicated there that you might be willing to elaborate on how the committee arrived at the 20 years. Could you talk about that for a moment? [LR2CA]

SENATOR FRIEND: Yeah, if I remember, if my recollection is...it's not as good as it used to be, but the...without any further elaboration, we, in the Executive Session, talked about some of the comments that we got back that a lot of the developmental...the information that we were getting from folks in the development arena out there, the construction business, the developers out there, the...also cities, cities dealing with this type of subject matter, were having difficulty with the 15 years. They were saying, look, I mean, why should we dump...Senator Raikes brought up a good point. Removing a certain amount of that tax base for a certain time and not getting the job done, we were concerned about that. Now, I'm not positive that this is the right way to go. In 1976, they amended the 20-year out of there and put 15. We thought it would be an enhancement that would make these investments more significant, where folks are stepping back and saying, you know what, we can accomplish the goal here, and the goal is X. Right now, we're only getting to Y. [LR2CA]

SENATOR ADAMS: Thank you, Senator Friend. I've had an opportunity in my political lifetime to be involved in a lot of TIF projects, and I would tell you that TIF is one of the few mechanisms that municipalities have to encourage economic development. When this amendment appeared on the ballot in November, I had reservations about it. At the same time, I saw some things that I liked. And one of the things that I liked, frankly, was that we were taking the blighted and the substandard out of there. Now, I would tell you that when you do that, it...you're flipping the policy of the state. The policy of the state with TIF is redevelopment. When you take blighted and substandard out of there, what you're really saying is development. And I tend to be more okay with that. Some of the experiences I've had when property owners' property gets included in a redevelopment plan, and it has been designated blighted and substandard, they are offended by that. And you can spend an awful lot of time trying to explain to them, well, it's really not blighted and substandard, but. So I'm encouraged to think that maybe removing that language would be helpful. If I have a concern...and I'm not prepared to vote against this at this point, but if I have a concern, it's the length of time that we pull property off of the tax rolls. You know, in November when this appeared on the ballot, it was for 30 years. And if you think about it for a moment, we were in essence taking away from school districts property value for literally a generation. The idea behind TIF was, it was a "but for." Couldn't happen "but for." And the subdivisions that weren't going to get the property tax have been understanding, I think, that we know that we wouldn't get

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anything but for the encouragement of TIF, and so we're willing to wait the 5 years, 10 years, maximum of 15 for us to get that increment. So I sit back at this point, willing to move this, but I'm cautious about it. I'm really concerned about the time period more than anything else. Thank you, Madam President. [LR2CA]

SENATOR SCHIMEK: Thank you, Senator Adams. Senator Gay, you're recognized to speak. [LR2CA]

SENATOR GAY: Thank you, Madam President. I missed the opening Senator Rogert made, so if I ask a question that's repetitive, I apologize. But I don't have any experience with TIF financing. I understand generally the concepts. But I guess I heard the discussion, if this was on the ballot...and I'm one of the 40 percent probably that voted for this last time, because I thought it would be a tool that counties could use and other people could use. As I hear more about it now, and we're going to discuss this a little more, the questions I have, I guess, would be, do...is the state then the...actually, we just say, we will look at it. Does that mean the State Department of Economic Development will look at these projects, or what? So I have a couple questions, if Senator Rogert would yield to a few questions. [LR2CA]

SENATOR SCHIMEK: Senator Rogert, would you yield to a few questions? [LR2CA]

SENATOR ROBERT: Yeah. [LR2CA]

SENATOR GAY: First would be that. When we talk about, if this were to pass, does the State Department of Economic Development review that? And if you...I can ask someone... [LR2CA]

SENATOR ROBERT: Actually, I think it comes to the body. Yeah, so they'll come to the Urban Affairs Committee for approval or disapproval. [LR2CA]

SENATOR GAY: Okay. My concern with that would be, on all these, if...Senator Adams referred to, he has more experience, that this now opens it up to all development, not just blighted property, but now we're...instead of redevelopment, we're in the development business. I have a little concern that the legislative body would be reviewing projects. Should that not go to somebody like Department of Economic Development? Or...and I guess this is a question that, if anyone else...you know, as we have further discussion, that kind of gets to me--how is this administered? So I'm looking for answers to that. The...and then the cost-benefit analysis, all those different things that I think you prepare for a TIF program, I think you have to do that. There's planning commissions, and then the communities that don't have a planning commission, you know, is it the county board? City council? So I'd want to hear from anybody that has any experience on how this exactly works, because I think it's...like I say, I think it's a good tool that maybe we could put in the economic development,

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quote, toolbox, but you know, sometimes there's...how we...what we put in there concerns me, because if this gets to be abused, we're then taking on a lot of the risk for a project, and maybe government shouldn't be taking on that kind of risk. I'm not so sure. So I guess the...what I'm going to look for...and I'll hit my light again, but those are the questions I have--how this is administered if it does pass; and then, you know, as Senator Adams mentioned, now we're getting into the development business. I think local communities can do that, but you got to be somewhat cautious. So how the whole program works I'd like to hear a little more, if anyone would like to educate me a little bit on that. Thank you, Madam President. [LR2CA]

SENATOR SCHIMEK: Thank you, Senator Gay and Senator Rogert. Senator Louden, you are next to speak. [LR2CA]

SENATOR LOUDEN: Thank you, Madam President and members. I'd wonder if Senator Rogert would yield to questions, please? [LR2CA]

SENATOR SCHIMEK: Senator Rogert, would you yield to a question? [LR2CA]

SENATOR ROBERT: Sure thing. [LR2CA]

SENATOR LOUDEN: Yeah, as I read the part, you know, where you have the taxes levied on excess value property--and of course, that was in the bill before--but a "for instance" of this is, if a developer wanted to come into an area on the edge of a town, he could purchase a batch of farm ground and then it would be valued at 75 percent of actual cash value, and then as he would put his development buildings, his malls and everything on there, that extra valuation then would be taxed to pay for the bond issue to pay for that thing. Is that the way this is going to work? [LR2CA]

SENATOR ROBERT: Yeah. The revenue that would have been collected for the increased valuation of the property is deferred, and they have to use that money to pay down the debt. [LR2CA]

SENATOR LOUDEN: Now, this is where I have a problem with this. First of all, it was on the ballot and it went down in flames once. The second thing is, I always thought this other TIF, as it's called, was put in there to kind of rejuvenate these downtown areas, the blighted areas in towns that were falling down. And you drive around any of these larger towns, everybody is moving out to the outside of town, your downtown is deteriorating rapidly. And that's what I always thought this part of the legislation was for, was to do something like that. By doing this, all we're doing is covering up more good farm ground with concrete and letting our downtown area grow up to weeds. I have a problem with supporting some type of legislation, and especially putting it in the constitution, that would go against those principles of trying to do something about taking care of our downtown areas and cover up more farm ground, when actually

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you're covering up farm ground in eastern Nebraska that can grow crops without near as much water as what it takes to grow crops in the western part of the state. Every time you take five acres out down here, you're going to have to find five acres of farm ground someplace else. And the way the state of Nebraska is built, it's got to be five acres that's probably going to demand some type of supplemental water. So I have a problem with this, because...especially when you take out the part of designated blight and substandard areas, because I always thought that's what the original legislation was all about. The second thing, as I say, it was put before the voters once, and once they say no, I don't have any problem understanding the word "no" from the voters. So with that, thank you for bringing it forwards. I think the discussion is necessary. But at the present time, I have to say that I don't think I can support this as an amendment to the constitution. Thank you, Senator Rogert, and thank you, Madam President, and thank you, Mr. Speaker. [LR2CA]

SPEAKER FLOOD PRESIDING [LR2CA]

SPEAKER FLOOD: Thank you, Senator Louden. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR75. Mr. Clerk. [LR2CA LR75]

CLERK: Mr. President, I have a confirmation report from the Education Committee, offered by Senator Raikes. Enrollment and Review reports LB368A to Select File. The Committee on Education, chaired by Senator Raikes, reports LB342 to General File with amendments. And I have an amendment to be printed by Senator Ashford to LB377. Name adds: Senator Pirsch to LB304; Senator Pirsch to LB674. Senator Langemeier to withdraw his name from LB701. (Legislative Journal pages 1256-1259.) [LB368A LB342 LB377 LB304 LB674 LB701]

And, Mr. President, a priority motion. Senator Schimek would move to adjourn until Tuesday morning, April 24, at 9:00 a.m. []

SPEAKER FLOOD: Senators, you've heard the motion to adjourn until tomorrow morning at 9:00 a.m. All those in favor say aye. All those opposed say nay. The ayes have it. We stand adjourned. []